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Study on an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples focusing on a voluntary mechanism

Note by the secretariat

Pursuant to a decision of the United Nations Permanent Forum on Indigenous Issues at its eleventh session (see E/2012/43, para. 109), Dalee Sambo Dorough and Megan Davis, members of the Forum, were appointed to undertake a study on an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples, focusing on a potential voluntary mechanism to serve as a complaints body at the international level, in particular for claims and breaches of indigenous peoples' rights to lands, territories and resources at the domestic level. The outcome of the study is hereby submitted to the Permanent Forum at its thirteenth session.

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Study on an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples focusing on a voluntary mechanism

I. Introduction

1. Since the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, there has been discussion about the need for a mechanism by which to monitor the implementation of the Declaration and its interpretation in international law. This was partly recognized in article 42 of the Declaration which states:

> The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

2. Following its discussions on article 42 in 2009, the Permanent Forum hosted an international expert group meeting on the role of the Permanent Forum in the implementation of article 42 of the Declaration (E/C.19/2009/2). In recent times there has been increased cooperation and coordination between the Permanent Forum, the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples, and the unique nature of each of the three mandates has influenced this relationship. Each of these mechanisms contributes significantly to the implementation of the Declaration, although not in a wholly coordinated way. In addition, these bodies and their secretariats have significant workloads and commitments and therefore none of them can function as an oversight body for the implementation of the Declaration.

3. Indigenous peoples in particular are becoming increasingly concerned that a mechanism is needed to monitor and coordinate the implementation of the Declaration. The outcome document of the Global Indigenous Preparatory Conference for the World Conference on Indigenous Peoples (A/67/994, annex), held in Alta, Norway, in June 2013 (the Alta Declaration) and the Lima Declaration of the World Conference of Indigenous Women, held in Lima in October/November 2013, recommend a mechanism to review, monitor and report on the Declaration. The Alta Declaration recommended the creation of a new United Nations body with a mandate to promote, protect, monitor, review and report on the implementation of the rights of indigenous peoples, including but not limited to those affirmed in the Declaration, and that such a body be established with the full, equal and effective participation of indigenous peoples.

4. Perhaps the most acute reason for the increased attention being given to the establishment of a mechanism is in the work of the Special Rapporteur, who, through his mandate, has conducted many country visits. Despite the expressions of commitment to the Declaration worldwide, the Special Rapporteur has observed "lack of knowledge and understanding about the Declaration, the values it represents or the deep-seated issues confronting the indigenous peoples that it addresses" (A/68/317, para. 78). According to the Special Rapporteur, a still pending crucial task is raising awareness about the Declaration among Government actors, the United Nations system, indigenous peoples themselves and, more generally, society. The creation of a complaint mechanism is one way to promote

greater understanding of the content of the Declaration and, thereby, awareness. It will remain difficult for the goals of the Declaration to be achieved amid competing political, economic and social forces unless the authorities and non-indigenous sectors of the societies within which indigenous peoples live come to share in awareness and conviction concerning those goals.

5. The Special Rapporteur's concern about the insufficient knowledge and use of the Declaration by States and civil society has played out in the universal periodic review. He has characterized this dynamic, as well as lack of recognition of the significant normative weight of the Declaration and its foundations in equality and human rights as factors that debilitate commitment to and action by States. The lack of knowledge and expertise globally on the Declaration is of concern to the Permanent Forum. The failure of some States to take seriously the goals and rights contained within the Declaration is detrimental to indigenous peoples' rights and well-being.

6. One way of addressing the paucity of knowledge and the lack of consistency in its implementation is to establish a mechanism to protect, review, monitor and report on the Declaration. This mechanism can be empowered through the development of an optional protocol. There is a lack of literature on the technical aspects of such an optional protocol. There is no literature that militates against advocacy for an optional protocol. In fact, the literature reveals persuasive precedents within the United Nations system which, for well over 30 years, has established additional or supplementary mechanisms associated with an international human rights instrument — notably declarations — that have not crystallized in the form of a treaty to be acceded to and ratified by States. We draw attention to the communication procedure of the Commission on the Status of Women established in 1947 by the Economic and Social Council in its resolution E/76 (V), decades before the existence of the Convention on the Elimination of All Forms of Discrimination against Women. In addition, since 1975, the Commission on Human Rights (which became the Human Rights Council in 2006) not infrequently established a variety of mechanisms aimed at improving the protection of human rights, particularly where there appeared to be a consistent pattern of human rights violations. The procedure for dealing with communications relating to violations of human rights and fundamental freedoms established by the Council in 1970 in resolution 1503 (XLVIII) (called the "1503 procedure") was one such mechanism. Another non-treaty-based mechanism is the Working Group on Arbitrary Detention, established by the Commission in resolution 1991/42, the mandate of which has been extended by Human Rights Council resolution 6/4 and subsequent resolutions. The mandate of the Working Group is to consider individual complaints and is based on articles 7, 9-11, 13, 14 and 18-21 of the Universal Declaration of Human Rights. Another example is the Working Group on Enforced or Involuntary Disappearances, established by the Commission in 1980 (resolution 20 (XXXVI)).

7. Prior to discussion about the potential form and content of an optional protocol to the Declaration, some fundamental principles must be stated and recognized. As noted above, the Alta Declaration proposes a new United Nations body that protects indigenous peoples' rights; so, too, should any new mechanism based on the present study. It must be noted that the recommendations made to the Permanent Forum specify that it should highlight the question of lands, territories and resources. However, the basic principles that underscore the universality of human rights and stress that they are interrelated, interconnected, indivisible and interdependent,

including those embraced by the Declaration, must be fully recognized in the context of the advancement of a possible optional protocol.[1] The Declaration, as an indigenous-specific human rights instrument, must therefore be understood as a whole and its various articles must be interpreted in relation to one another.

8. Furthermore, the jurisprudence that is evolving through the United Nations treaty bodies and mechanisms, as well as in regional human rights bodies in Africa, the Inter-American system and elsewhere, remains highly important. The rulings of regional bodies, such as the African Commission on Human and Peoples' Rights and the Inter-American Court of Human Rights, are legally binding. Such jurisprudence must be safeguarded and in no way diminished or undercut by any potential mechanism. In this regard, a voluntary protocol to the Declaration would mean that States could not insist upon contradictory understandings or substandard positions being binding on indigenous peoples. In fact, given the normative weight of the Declaration — the human rights norms that are embraced by the Declaration, including core principles of equality, non-discrimination, cultural integrity, property and self-determination — discussions about and the development of additional procedures or a voluntary protocol are a natural development in international human rights law (see A/68/317, para. 64). This has been the case in regard to women's rights, arbitrary detention and disappearances.

9. Indeed, any outcome from the present study, including possible negotiated understandings or agreements, must not fall below the minimum standards of the Declaration. Any such outcomes must be consistent with the protection and promotion of the rights of indigenous peoples as well as the jurisprudence of United Nations and regional treaty bodies. For this reason, any future mechanism would have to be worked out in broad terms that must be agreed to by States and indigenous peoples.

10. Section II below describes what an optional protocol is and why optional protocols are used in international human rights law. It includes examples of current optional protocols and describes the limitations of such instruments. Section III explains why the Declaration would be strengthened by an optional protocol.

II. What is an optional protocol?

11. An optional protocol is a supplementary agreement to a main agreement. Human rights treaties are often accompanied by an optional protocol intended to establish a specific complaint mechanism and procedure for protecting human rights and enforcing the original treaty, or to supplement a substantive area of the treaty with further measures to be subscribed to by States parties. Once acceded to, the optional protocol becomes legally binding under international law. An optional

[1] See, for example, H. Steiner, P. Alston and R. Goodman, *International Human Rights in Context: Law, Politics and Morals*, 3rd edition (Oxford University Press, 2007); J. Donnelly, "The relative universality of human rights", *Human Rights Quarterly*, vol. 29, No. 2 (May 2007); E. Brehms, *Human Rights: Universality and Diversity* (The Hague, Martinus Nijhof, 2001); Office of the High Commissioner for Human Rights, "What are human rights?", available from www.ohchr.org/en/issues/pages/whatarehumanrights.aspx; Dalee Sambo Dorough, "Human rights", in United Nations, *State of the World's Indigenous Peoples* (United Nations publication, Sales No. 09.VI.13), chap. IV; United Nations Population Fund, Human Rights Principles, available from www.unfpa.org/rights/principles.htm.

protocol "may be on any topic relevant to the original treaty and is used either to further address something in the original treaty, address a new or emerging concern or add a procedure for the operation and enforcement of the treaty — such as adding an individual complaints procedure".[2]

12. Optional protocols often contain stricter measures than the treaty to which they relate; States parties may choose whether to ratify the optional protocol, and therefore they are not automatically binding on the original parties to the treaty. In addition, optional protocols have their own specific ratification mechanisms that operate independently of the original treaties; generally, only States that have already agreed to be bound by an original treaty may ratify its optional protocols.[3]

Why adopt an optional protocol?

13. If a treaty has not made sufficient provision for its enforcement and accountability, an optional protocol is often created to fulfil this function. Accountability functions can involve an individual complaints process, known as a "communications procedure", or an "inquiry procedure". A communications procedure permits individuals or groups representing individuals to bring a complaint to the supervisory committee responsible for monitoring implementation of the treaty. The inquiry procedure enables a supervisory committee to investigate on its own volition. In the United Nations human rights treaty system, an optional protocol establishes judicial and review authority for human rights committees. That is, through an optional protocol a committee may review individual complaints in a way similar to that of a traditional human rights court. Also, in cases of grave and systematic violations of human rights, some committees can initiate an investigation in an attempt to hold States parties accountable.[4]

14. In addition, an "early warning" and an "urgent action" capacity allow a treaty body to insert itself into an ongoing "urgent" situation of human rights violation in an attempt to compel immediate compliance by a State.

15. The two Optional Protocols to the International Covenant on Civil and Political Rights were developed because the States parties considered that in order to achieve the purposes of the Covenant and the implementation of its provisions it would be appropriate to enable the Human Rights Committee to receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

16. The first Optional Protocol is an individual complaints mechanism enabling individuals to submit complaints or communications to the Human Rights Committee; the Second Optional Protocol, aiming at the abolition of the death penalty, is also monitored by the Human Rights Committee.

17. In resolution 54/4, the General Assembly, recalling that the Beijing Platform for Action supported the process initiated by the Commission on the Status of Women with a view to elaborating a draft optional protocol to the Convention on the

[2] United Nations Children's Fund, Introduction to the Convention on the Rights of the Child, available from www.unicef.org/crc/files/Definitions.pdf.

[3] The Optional Protocols to the Convention on the Rights of the Child are exceptions.

[4] See Coalition for an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Take Action NOW! Advocacy Kit, 2004, available from www.iwraw-ap.org/documents/OP_to_ICESCR_Advocacy_KitInt.pdf.

Elimination of All Forms of Discrimination against Women that could enter into force as soon as possible on a right-to-petition procedure, adopted the Optional Protocol on 6 October 1999; it entered into force on 22 December 2000.

18. That Optional Protocol includes an inquiry procedure and a complaints procedure that allows the Committee on the Elimination of Discrimination against Women to conduct inquiries into grave and systematic abuses of women's human rights in States parties to the Optional Protocol (art. 8). The Optional Protocol is based on the article 20 inquiry procedure of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

19. The preamble of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, while less explicit than others regarding the reasons for the elaboration of an optional protocol, allows for the investigation of substantial abuses of women's human rights by an international body of experts; is useful where individual communications fail to reflect the systemic nature of widespread violations of women's rights; allows widespread violations to be investigated where individuals or groups may be unable to submit communications (for practical reasons or because of fear of reprisals); gives the Committee an opportunity to make recommendations regarding the structural causes of violations; and allows the Committee to address a broad range of issues in a particular country.[5]

20. The Convention on the Rights of the Child has two Optional Protocols, adopted at the same time. One is the Optional Protocol on the involvement of children in armed conflict and the other is the Optional Protocol on the sale of children, child prostitution and child pornography. With regard to the former, the preamble is explicit about the reasons for its development and adoption. It states that: States parties are disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development and condemn the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places generally having a significant presence of children, such as schools and hospitals. It also cites the need to further strengthen the implementation of the rights contained in the Convention, noting the adoption of the Rome Statute of the International Criminal Court and, in particular, its inclusion as a war crime of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts.

21. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered into force on 22 June 2006. It allows for the creation of a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The preamble expressly states that the reason for the Optional Protocol is to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment.

[5] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), Convention on the Elimination of All Forms of Discrimination against Women: What is an optional protocol?, available from www.un.org/womenwatch/daw/cedaw/protocol/whatis.htm.

22. The Optional Protocol to the Convention on the Rights of Persons with Disabilities entered into force on 3 May 2008. Under the Optional Protocol, States parties recognize the competence of the Committee on the Rights of Persons with Disabilities to receive and consider communications from or on behalf of individuals or groups of individuals subject to their jurisdiction who claim to be victims of a violation of the provisions of the Convention (art. 1).

Are there limitations to optional protocols?

States parties

23. The limitations to optional protocols are that, most commonly, the communications processes can be used only by individuals or groups in States that are party to and have ratified the relevant treaty.

Legal status

24. The legal status of committee decisions under an optional protocol varies. It is a basic principle of international law that State legal systems are sovereign and that for a decision to have legal consequence domestically, an enabling act is usually required to transform international law into domestic law; committee "views" are not binding in the way that decisions of domestic courts are binding, nor are States free to disregard them at will. The legal force of the committee's views lies between these two extremes, and its reports constitute, at a minimum, very persuasive analyses and guidance.[6] Essentially, optional protocols are "optional", or voluntary, and therefore ratifying them indicates a transaction of good faith between the State and the individuals and groups involved in the relevant subject matter; in the case of the Declaration, between indigenous peoples and the State.

Reservations

25. States parties may enter reservations when ratifying treaties or optional protocols as long as they are not incompatible with the principles of the instrument. However, as the Declaration is a declaration of the General Assembly, this would not be necessary. Indeed, because a declaration is not a treaty, it may be that an optional protocol can achieve more lasting and mutually agreeable outcomes owing to its voluntary or optional nature.

III. Why is an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples needed?

26. While States already have binding obligations in international law in regard to the right to self-determination and property rights, in the context of indigenous peoples, based on customary international law, there is an urgent need for additional, explicit measures to be taken. There is a need for the establishment of a mechanism to monitor both the content and the weight of the Declaration. An optional protocol, developed in cooperation with States, is one mechanism that could facilitate this. In relation to the right to self-determination, rights to lands, territories and resources

[6] Human Rights Resource Law Centre, "Australia's ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights", Melbourne, July 2009.

and the right of free, prior and informed consent, in particular, there is a need to monitor and consolidate the content and weight of such rights. The exigency for such a mechanism is explained primarily with reference to the work of the Special Rapporteur on the rights of indigenous peoples, who has raised a concern, on the basis of his own observations over five years, that the Declaration is weakened by certain ambiguities and positions about its status and content (A/68/317, para. 87). In particular, continual reference to the Declaration as "non-binding or merely aspirational" accords the Declaration a "diminished status" and rationalizes "a diminished commitment to its terms" (ibid., para. 60).

What are declarations?

27. Declarations are adopted by resolution of the General Assembly, pursuant to Article 13 of the Charter of the United Nations which empowers the Assembly to make recommendations with respect to the progressive development of international law and its codification and in assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.[7] Declarations can be compared to or contrasted with treaties, which are "binding" upon those States that ratify them and incorporate them in domestic law. The distinction between "binding" and "non-binding" is brought into sharp focus when considering the Declaration. An overemphasis on the non-binding status of the Declaration can imply that the instrument is not effective or has no legal consequence; this is incorrect. According to the Special Rapporteur, to say simply that the Declaration is non-binding is an incomplete and potentially misleading characterization of its normative weight. It has long been widely understood that standard-setting resolutions of the General Assembly can and usually do have legal implications, especially if called "declarations", a denomination usually reserved for standard-setting resolutions of profound significance (ibid., para. 61).

28. In regard to declarations of the General Assembly, even though the Declaration itself is not legally binding in the same way that a treaty is, the Declaration reflects legal commitments that are related to the Charter, other treaty commitments and customary international law. The Declaration builds upon the general human rights obligations of States under the Charter and is grounded in fundamental human rights principles, such as non-discrimination, self-determination and cultural integrity, that are incorporated into widely ratified human rights treaties, as evident in the work of United Nations treaty bodies. In addition, core principles of the Declaration can be seen to be generally accepted within international and State practice, and hence to that extent the Declaration reflects customary international law.

29. On the issue of customary international law, Emmanuel Voyiakis states that General Assembly resolutions can provide inspiration for the development of new customary international practices and that they may often help to sharpen existing customary practices,[8] an example being the Universal Declaration of Human Rights.

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[7] For the purposes of this study, the focus is on declarations adopted by the General Assembly. However, it is understood that not all declarations are adopted by the Assembly, e.g., declarations adopted by the International Labour Organization (ILO).

[8] Emmanuel Voyiakis, "Voting in the General Assembly as evidence of customary international law?" in *Reflections on the UN Declaration on the Rights of Indigenous Peoples*, Stephen Allen and Alexandra Xanthaki, eds. (Hart Publishing, 2011).

30. Despite its non-binding character and non-treaty status, the Declaration is a consensus document that received the support of the majority of the States Members of the United Nations, and subsequently all Member States, because it already "embodies many human rights principles already protected under international customary and treaty law and sets the minimum standards for States parties' interactions with the world's indigenous peoples".[9] This consensus, and the authoritative nature of the instrument, means that, under the Charter, specifically Articles 1 (2), 1 (3), 55 and 56, Member States have an obligation to respect and promote those rights.

Customary international law

31. It is the position of the International Law Association Committee on the Implementation of the Rights of Indigenous Peoples (formerly the Committee on the Rights of Indigenous Peoples) and the Special Rapporteur on the rights of indigenous peoples that aspects of the Declaration constitute customary international law: The relevant areas of indigenous peoples' rights with respect to which the discourse on customary international law arises are self-determination, autonomy or self-government, cultural rights and identity, land rights as well as reparation, redress and remedies.[10] Lorie Graham and Siegfried Wiessner provide the following explanation:

> [The Declaration] is a solemn, comprehensive and authoritative response of the international community of States to the claims of indigenous peoples, with which maximum compliance is expected. Some of the rights stated therein may already form part of customary international law, others may become *fons et origo* of later-emerging customary international law. Scholarly analyses of State practice and *opinio juris* have concluded that indigenous peoples are entitled to maintain and develop their distinct cultural identity, their spirituality, their language, and their traditional ways of life; that they hold the right to political, economic and social self-determination, including a wide range of autonomy, and that they have a right to the lands they have traditionally owned or otherwise occupied and used.[11]

32. Customary international law as a source of international law can emerge when a significant number of States hold common agreement with respect to a norm, its content and compliance. To meet the requirements of customary international law as set down by the International Court of Justice, evidence is required of widespread State practice in addition to *opinio juris*, which translates as the belief by States that such practice is required by law.[12] Once the State practice and belief are established, the custom can crystallize into binding international law, if such acts amount to

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[9] Law Council of Australia, Background Paper, "Policy statement on indigenous Australians and the legal profession", February 2010.

[10] International Law Association, Committee on the Rights of Indigenous Peoples, The Hague Conference (2010): Rights of Indigenous Peoples, Interim Report, available from www.ila-hq.org/en/committees/index.cfm/cid/1024.

[11] Lorie M. Graham and Siegfried Wiessner, "Indigenous sovereignty, culture and international human rights law", *South Atlantic Quarterly*, vol. 110, No. 2 (Spring 2009).

[12] *North Sea Continental Shelf* (*Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands*), *Judgment, I.C.J. Reports 1969*.

settled practice. While the test is "notoriously difficult to achieve",[13] according to the Special Rapporteur, it cannot be much disputed that at least some of the core provisions of the Declaration, with their grounding in well-established human rights principles, possess these characteristics and thus reflect customary international law (A/68/317, para. 64). This is supported by the International Law Association, which has stated that even though it cannot be maintained that the Declaration as a whole can be considered as an expression of customary international law, some of its key provisions can reasonably be regarded as corresponding to established principles of general international law, therefore implying the existence of equivalent and parallel international obligations with which States are bound to comply.[14]

33. In addition, the International Law Association concluded in its report that the unequivocal judicial and para-judicial practice of treaty bodies, as well as the pertinent State practice at both the domestic and international levels, unequivocally show that a general *opinio juris* as well as *consuetudo* exist within the international community, according to which certain basic prerogatives that are essential in order to safeguard the identity and basic rights of indigenous peoples are today crystallized in the realm of customary international law.[14]

Peremptory norms of international law

34. The Declaration also reflects *jus cogens*, or peremptory norms of international law. Peremptory norms are universal norms from which no derogation is permitted, even a contrary treaty provision. Peremptory norms include freedom from genocide and the international norms prohibiting racial discrimination. In addition, the right to self-determination is viewed by many as a peremptory norm.

Lands, territories and resources

35. In relation to customary international law, one of the areas that commentators and lawyers agree is a distinct body of developing customary international law is land, territories and resources. According to the International Law Association, State practice with respect to indigenous land rights has developed both at the legislative (including constitutional) and jurisdictional levels.[14] Since the adoption of the Declaration, Professors Anaya and Wiessner have argued, on the basis of a global study of State practice with respect to indigenous land, a distinct body of customary law that accords with the indigenous right to demarcation, ownership, development, control and use of the lands they have traditionally owned or otherwise occupied and used.[15] This norm was asserted by the Inter-American Court of Human Rights in *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*. In its lawsuit filed before the Court, the Inter-American Commission on Human Rights asserted that there is an international customary international law norm which affirms the rights of indigenous peoples to their traditional lands. Nicaragua did not refute this assertion,

[13] Megan Davis, "To bind or not to bind: the United Nations Declaration on the Rights of Indigenous Peoples five years on", *Australian International Law Journal*, vol. 19 (2012).

[14] International Law Association, Interim Report.

[15] S. James Anaya and Siegfried Wiessner, "The UN Declaration on the Rights of Indigenous Peoples: towards re-empowerment", JURIST, 3 October 2007, available from http://jurist.law.pitt.edu/forumy/2007/10/un-declaration-on-rights-of-indigenous.php.

therefore acquiescing with the assumption that indigenous land rights are protected by customary international law.[16]

36. In addition, the International Law Association has identified jurisprudence emanating from the United Nations treaty bodies in relation to lands, territories and resources, including the Human Rights Committee, which stressed the obligation of States parties to the International Covenant on Civil and Political Rights to provide an effective restitution of ancestral lands to indigenous peoples (A/HRC/4/77, para. 8);[14] the Committee on the Elimination of Racial Discrimination, which proclaimed in its general recommendation No. 23 an obligation for States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories (para. 5).

37. On this point, the International Law Association report found that in recent times a significant number of States have developed reparation policies aimed at redressing indigenous peoples for the lands they had been deprived of.[10] The Association has found this practice emerging from Argentina, Australia, Bangladesh, Belize, Bolivia (Plurinational State of), Botswana, Brazil, Cambodia, Canada, Chile, Colombia, Costa Rica, Ecuador, India, Japan, the Lao People's Democratic Republic, Malaysia, Mexico, New Zealand, Nicaragua, Norway, Paraguay, Peru, the Philippines, South Africa, the United States of America, Venezuela (Bolivarian Republic of), Taiwan Province of China and the European Union.[10]

IV. Process of developing of an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples in relation to lands, territories and resources

38. Disputes between States, third parties and indigenous peoples over lands, territories and resources have been and continue to be the subject of protracted and costly litigation. Yet the Permanent Forum has previously emphasized the role the Declaration can play in shifting the dynamics of disputes between indigenous peoples and States. In cases where negotiations with the State did not succeed, the Declaration could be a major factor in litigation for rights or in complaints brought before the human rights treaty bodies. The Declaration could also help to shift the dynamics of disputes so that the burden of proof was not always placed on indigenous peoples, but rather on States. Participants have referred to examples where the Declaration had already been effectively used in dialogue between indigenous peoples and the State.

39. The role that the Declaration can play in dialogue between indigenous peoples and States underpins the impetus for the development of an optional or voluntary protocol. Therefore, it is important that the elements of such an agreement be carefully considered. We consider that an optional protocol to the Declaration should be (a) voluntary; (b) confined to the Declaration's provisions that pertain to

[16] HR1/GEN/1/Rev 7, General Recommendation XXIII (1997), *The Rights of Indigenous Peoples*, para. 5.

lands, territories and resources; (c) negotiated through extensive dialogue between indigenous peoples and nation States; and (d) negotiated on the basis of an "agreement in principle". In addition, the committee or other mechanism established under the optional protocol should be composed of independent human rights experts.

A. Voluntary nature of the optional protocol

40. In order for any mechanism such as an optional protocol to be effective and develop satisfactory and lasting solutions, it must develop incrementally. We therefore suggest that the mechanism for the Declaration be optional, or voluntary, and should not compel States to engage. Cooperation and partnership should define the work of developing the mechanism, as this reflects the spirit of the Declaration. The mechanism would provide an informal, voluntary process or pathway for parties to resolve disagreements in a cooperative environment in order to reach a mutually acceptable resolution. The outcomes should ultimately ensure implementation of the Declaration's standards and further protect and promote the rights of indigenous peoples. This approach gives participants greater control over the outcomes and is more likely to lead to successful and sustainable solutions. However, such a voluntary mechanism cannot serve as a way for States to avoid being monitored by existing international or regional human rights bodies and mechanisms or domestic courts; rather, an optional protocol should invite States to act in good faith and to engage at a higher level of commitment and to raise standards on the basis of mutually acceptable resolution.

41. It would be useful for the mechanism to have both a communications and an inquiry procedure. The inquiry aspect could invite a more proactive process that would prompt attention and, eventually, dialogue and negotiations by the parties concerned rather than a punitive approach. Once a State has "voluntarily" submitted to the mechanism, the procedure would be one that would trigger dialogue and negotiation.

B. Measures confined to Declaration provisions pertaining to lands, territories and resources

42. It would seem preferable at the outset to confine these initial voluntary measures to the issues related to lands, territories and resources, because these are the provisions that seem to trigger the most difficult matters to resolve by States, indigenous peoples and third parties. The proliferation of litigation and jurisprudence internationally over the past decade on lands, territories and resources highlights the importance and urgency of such an approach.[17] The reports of the Special Rapporteur

[17] International Law Association, Interim Report; International Law Association, Committee on Rights of Indigenous Peoples, Sofia Conference (2012), Final Report, available from www.ila-hq.org/en/committees/index.cfm/cid/1024. Both reports discuss the proliferation of both litigation and jurisprudence specifically concerning indigenous land rights. See, for example, *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador* (Merits and Reparations), Inter-American Court of Human Rights, Ser. C, No. 245, 27 June 2012; *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* (Merits), African Commission on Human and People's Rights, communication No. 276/2003, 25 November 2009.

on the rights of indigenous peoples illustrating the significant struggles of indigenous peoples around the world in relation to their lands, territories and resources provide cogent evidence of the pressing need for a mechanism that encourages negotiation and dialogue between parties. A committee or other mechanism could monitor and provide expert advice on established principles and developing norms. For example, there is a lot of interest in free, prior and informed consent, particularly on the part of the business sector. Such a body could be informed by the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31, annex), endorsed by the Human Rights Council in its resolution 17/4. The option for States, indigenous peoples and third parties to discuss the content and weight of free, prior and informed consent could provide some coherence to the meaning of such consent on the basis of the important work of the Special Rapporteur in elucidating the procedural aspect of free, prior and informed consent (based on comprehensive consultations with stakeholders), as well as potentially avoiding costly litigation.

43. It must be acknowledged that in relation to free, prior and informed consent, the Declaration has been explicitly addressed by the Global Compact and the Working Group on the issue of human rights and transnational corporations and other business enterprises. Furthermore, special rapporteurs and independent experts continue to address such consent in the context of the Declaration, the United Nations human rights treaty bodies, regional human rights mechanisms, the Permanent Forum and the Expert Mechanism on the Rights of Indigenous Peoples. Therefore, an optional protocol and committee or other mechanism associated with the Declaration could be guided accordingly in favour of protecting and promoting the rights of indigenous peoples. The establishment of an optional protocol based on the lands, territories and resources provisions of the Declaration can be considered a starting point after which measures could be expanded to the whole of the Declaration, with an understanding of the interrelated, interdependent, indivisible and interconnected nature of human rights, ensuring that these fundamental provisions will be interpreted in the context of the whole of the Declaration, other international human rights law and relevant domestic law.

C. Measures negotiated through extensive dialogue between indigenous peoples and States

44. Negotiation of the optional protocol must take place through extensive dialogue between indigenous peoples and States. This could be done through a series of expert meetings, as a human rights working group, or coordinated by the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the rights of indigenous peoples and the Permanent Forum. Dialogue and negotiation between the two parties are essential to ensure that the optional protocol has legitimacy. Importantly, indigenous peoples' participation is a way of realizing the right to self-determination, and the process would trigger all necessary elements of free, prior and informed consent. In addition, indigenous peoples and States are more likely to take the work of the mechanism seriously if they have had an equal role in its development, as occurred with the Declaration.

D. Measures negotiated on the basis of an "agreement in principle"

45. Finally, it would be highly constructive to develop an "agreement in principle" that reinforces the rights of indigenous peoples so that there is agreement on the fundamental principles that will guide discussions or negotiations about an optional protocol to the Declaration. In this way, all parties will have a clear understanding of basic ground rules throughout the design or creation of this much-needed mechanism. Such an agreement could include recognition of the Declaration and its normative weight, principles of equality and non-discrimination, the right to self-determination of indigenous peoples being given full effect in relation to their direct engagement in the negotiations, acknowledgement that the intent of the optional protocol is the promotion and protection of the rights of indigenous peoples, recognition of the need for all parties to act in good faith, acceptance of the interrelated nature of the Declaration's standards, a suggested time frame for completion of the discussion, dialogue or negotiation concerning the optional protocol and provision for financial support to ensure indigenous peoples' direct engagement in the discussions.

E. Committee or other mechanism composed of independent human rights experts

46. The committee or other mechanism should be composed of a pool of independent international human rights law experts who are versed, skilled, educated and/or experienced in indigenous cultural contexts. Members should have demonstrated expertise in subject areas of the Declaration. Members of this pool could be called upon or appointed, in collaboration with the indigenous peoples and the State concerned, and dispatched to review a situation, on the basis of a communications or inquiry procedure. The position would require any member to be ready and willing to be dispatched to a State if necessary. This suggested composition of such a mechanism promotes agility, integrity and top-level international legal expertise. Finally, it is our belief that as beneficiaries of the rights contained in the Declaration, indigenous peoples should have significant weight in collaborating with States on the selection of such experts, in the spirit of collaboration that was embedded in the process of drafting the Declaration.[18]

[18] One precedent was the drafting process of the Declaration itself, wherein indigenous peoples effectively changed the rules of the United Nations by insisting on, and successfully securing, their direct role in the entire standard-setting process, including, at some stages, indigenous co-chairs of key sessions of drafting groups. This dynamic was supported by Member States on the basis that indigenous peoples were the ultimate beneficiaries of the Declaration. Furthermore, in view of indigenous peoples' rights to lands, territories and resources; historical injustices; dispossession; and denial of land rights, the burden is squarely upon States to rectify these situations. See, generally, K. McNeil, "The onus of proof of aboriginal title", *Osgoode Hall Law Journal*, vol. 37, No. 4 (Winter 1999), where the author argues that indigenous peoples should be able to rely on present or past possession to raise a presumption of aboriginal title, and so shift the burden onto the Crown in proving its own title.

V. Conclusion and recommendations

47. The present study was written in response to a recommendation at the eleventh session of the Permanent Forum concerning an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples, focusing on a potential voluntary mechanism to serve as a complaints body at the international level, in particular for claims and breaches of indigenous peoples' rights to lands, territories and resources at the domestic level. This recommendation followed many years of discussion about the need for a voluntary or optional mechanism to monitor the implementation of the Declaration. The study has already highlighted the concerns of the United Nations about the lack of comprehensive national, political and legal initiatives aimed at upholding the minimum standards of the Declaration. In particular, the annual report of the Special Rapporteur on the rights of indigenous peoples to the General Assembly (A/68/317) emphasized his grave concern for the "debilitating" actions of States in underplaying or minimizing the weight and content of the Declaration.

48. In order to have a voluntary or optional mechanism providing for a complaint mechanism aimed at negotiation and dialogue underpinned by the principle of partnership as enshrined in the Declaration:

- The mechanism should be voluntary at the request of States (including third parties) and indigenous peoples concerned.
- The mechanism should be confined to the provisions of the Declaration and those conflicts or contentious issues specifically pertaining to lands, territories and resources.
- The mechanism should be negotiated through extensive dialogue between indigenous peoples and States on mutually agreed terms.
- The committee or mechanism established under the optional protocol should be composed of key international lawyers experienced in international law and indigenous human rights, including the Declaration, selected by indigenous peoples and States in collaboration. The members will not be remunerated (with the exception of expenses); they should be easily accessible and willing to be dispatched.

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Ongoing priorities and themes and follow-up

Report of the international expert group meeting on the theme "Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples"

Summary

The present report provides an overview of the issues discussed at the international expert group meeting on the theme "Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples", held from 15 to 17 January 2014 at United Nations Headquarters. It focuses on the conclusions and recommendations of the expert group meeting, which, among other things, called for increased emphasis on the provision of intercultural health care that responds to and engages with indigenous peoples' notions of health and illness, traditional medicinal knowledge and practices, as well as a conceptual framework that links their biological, spiritual and emotional lives.

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I. Introduction

1. At its twelfth session, the Permanent Forum on Indigenous Issues recommended that the Economic and Social Council authorize a three-day international expert group meeting on the theme "Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples". On 7 November 2013, at its reconvened substantive session of 2013, the Council, in its decision 2013/259, authorized the international expert group meeting, which included the participation of members of the Permanent Forum, representatives of the United Nations system, other interested intergovernmental organizations, experts from indigenous peoples' organizations, and interested Member States. The Council also requested that the results of the meeting be reported to the Permanent Forum at its thirteenth session, in May 2014. The meeting was organized by the secretariat of the Permanent Forum. The agenda and programme of work are contained in annex I to the present report.

II. Organization of work

A. Attendance

2. The following members of the Permanent Forum attended the meeting:

Mariam Wallet Mohamed Aboubakrine

Maria Eugenia Choque Quispe

Edward John

3. The Special Rapporteur on the rights of indigenous peoples, James Anaya, and the Chair of the Expert Mechanism on the Rights of Indigenous Peoples, Wilton Littlechild, also attended the meeting.

4. The following experts from the seven sociocultural regions participated in the meeting:

Larisa Abryutina (Eastern Europe, Russian Federation, Central Asia and Transcaucasia)

Clive Aspin (Pacific)

Mirna Cunningham (Latin America and the Caribbean)

Jessica Danforth (North America)

Agnes Leina Ntikaampi (Africa)

Tuku Talukder (Asia)

5. The meeting was attended by observers from Member States; United Nations agencies, funds and programmes; other intergovernmental organizations, indigenous peoples' organizations; and non-governmental organizations.

B. Documentation

6. The participants had before them a draft programme of work and documents prepared by the participating experts. The documents for the expert group meeting are set out in annex II to the present report. The documentation is also available on the website of the secretariat of the Permanent Forum on Indigenous Issues (http://undesadspd.org/IndigenousPeoples/EGM2014SexualHealthandReproductiveRights.aspx).

C. Opening of the meeting

7. At the opening of the expert group meeting, the Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs of the Department of Economic and Social Affairs of the Secretariat made a statement welcoming everyone to the meeting. The Chief of the secretariat of the Permanent Forum also welcomed the regional experts and representatives of the United Nations entities and outlined the objectives of the meeting.

D. Election of officers

8. Maria Eugenia Choque Quispe, a member of the Permanent Forum, was elected Chair of the meeting, and Alfonso Barragues, of the United Nations Population Fund (UNFPA), was elected Rapporteur.

E. Conclusions and recommendations

9. On 17 January 2014, the experts adopted by consensus the conclusions and recommendations contained in section IV below.

III. Highlights of the discussion

10. Right from the outset, some experts observed that the language related to the theme of the meeting, "Sexual health and reproductive rights" had evolved over the past 20 years. The International Conference on Population and Development, held in Cairo in 1994, and the Fourth World Conference on Women, held in Beijing in 1995, refer to a constellation of rights in existing human rights instruments which rest on the recognition of the rights of couples and individuals to control their sexuality and make reproductive decisions free of discrimination, coercion and violence while enjoying the right to the highest attainable standard of sexual and reproductive health. As the international community approaches 20 years of implementation of the Cairo and Beijing agendas, the term "sexual and reproductive health and rights" has emerged strongly in the context of the ongoing International Conference on Population and Development beyond 2014 international review. United Nations treaty monitoring bodies also consistently refer to the term "sexual and reproductive rights" in their work and jurisprudence.

11. Experts noted that, over the past 20 years, the world had experienced remarkable progress in important areas of sexual and reproductive health and rights:

maternal mortality had been significantly reduced; access to voluntary family planning and modern methods of contraception had increased; and access to treatment, where available, had transformed HIV and AIDS into a manageable disease. However, available data show that indigenous peoples are still disproportionately affected by many of these and other problems and little change has effectively occurred in their lives and well-being.

12. While the scarcity of data does not provide a real picture of the magnitude of these problems, participants emphasized that many countries had yet to legally recognize the identity and status of indigenous peoples. As a result, indigenous peoples become invisible or subsumed under such generic categorizations as ethnic minorities or impoverished and marginalized communities, without recognition of their distinct cultural identity and traditional governance systems. Even where identity and status are recognized, data disaggregated by indigenous status are often not available, making policies and programmes difficult to design and evaluate. The absence of civil registration was mentioned as a major impediment to ensuring access to basic social services and the ability to claim rights. Civil registration systems often do not reach indigenous peoples living in rural and remote locations, or, if they do, they are not sensitive to the culture of indigenous peoples, as shown for instance by the refusal to register children under indigenous names, which possibly inhibits parents from using these services.

13. Despite the normative requirement in international human rights law that health services be available, accessible, acceptable and of quality, indigenous peoples are particularly affected by issues of access owing to geographic, cultural, linguistic and political barriers, as well as indirect costs, such as transportation and user fees. The case of indigenous women being discharged from hospitals on the same day they deliver a baby for not having money for fees was cited by participants. Where sexual and reproductive health services are available, there is an obvious lack of skilled health workers, with dilapidated or ill-equipped structures. Moreover, discriminatory attitudes by service providers deter indigenous peoples from accessing these services. Although progress in the design of culturally acceptable maternal health services in certain Latin American countries was noted, there is still room for improvement, with other regions lagging behind.

14. Indigenous women and girls frequently face multiple forms of discrimination based on their indigenous status, age, location, economic status, sexual orientation and gender identity, marital status and disability. The feminization of the HIV pandemic in some countries and its associated stigma and discrimination was another compounding factor noted during the meeting. Intersecting discrimination entails that different groups and individuals within indigenous communities may face different barriers requiring specific responses from both the State and indigenous institutions and authorities.

15. Structural determinants, such as the ongoing effects of the colonization, occupation and militarization of indigenous peoples' territories, and the persistence of hegemonic views that continue to regard indigenous cultures as inferior, were also cited to explain the gaps between indigenous peoples and the non-indigenous population in the realization of sexual and reproductive health and rights.

16. The impact that development models based on the extraction of natural resources have on the health, safety and lives of indigenous peoples was repeatedly discussed during the meeting, with specific reference to the impact of pollution

caused by extractive industries on the sexual and reproductive health of indigenous peoples. In these contexts, women in particular are more vulnerable to HIV and sexual violence owing to the influx of male workers in indigenous peoples' territories, with subsequent reported cases of rape, assault and trafficking for sexual exploitation.

17. In the complex web of causal interconnections affecting the sexual and reproductive health and rights of indigenous peoples, the United Nations Declaration on the Rights of Indigenous Peoples provides a comprehensive framework for addressing the gaps identified by participants. The right to self-determination, the right to maintain and develop their own systems or institutions, the right to traditional medicines and health practices and the principle of free, prior and informed consent are cornerstones for the achievement of sexual and reproductive health and rights for indigenous peoples. Moreover, the obligations of States to improve the situation of indigenous peoples, including their right to education, health, food, water and sanitation, the freedom from violence and discrimination, and their right to decent work, were found to be mutually reinforcing and interdependent. International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries was cited as another fundamental instrument to address these and other underlying determinants of sexual and reproductive health, but still requires effective implementation.

18. Participants pointed out that a main challenge was constituted by the lack of political will to implement the Declaration and to redefine the status quo of power imbalances which, exacerbated by prevailing economic development models, pushes entire indigenous communities to marginalization and exclusion.

Intercultural health

19. The demand for culturally appropriate sexual and reproductive health services has been on the agenda for indigenous peoples, in particular indigenous women, for more than two decades. The International Conference on Population and Development reflected this demand by recognizing respect for cultural diversity, the need to ensure respect for the rights of indigenous peoples in a holistic way and the need to ensure their active and meaningful participation.

20. Intercultural sexual and reproductive health promotes physical, emotional, spiritual, individual and community well-being in all aspects of human sexuality and reproduction in ways consistent with the human dignity and rights of both men and women. Intercultural health implies and requires the development and incorporation of health models and best practices that integrate indigenous and Western medicine. These processes must be based on mutual respect, the recognition of traditional knowledge, the willingness to engage in a democratic process of exchange and the commitment to move towards an integrated health system.

21. The United Nations Declaration provides a framework for the recognition of indigenous peoples' rights to both modern and traditional health systems, comprising access to health information, medicines and services, as well as the recognition and development of health systems for indigenous peoples. The application of the principle of free, prior and informed consent through participatory mechanisms and procedures is fundamental in designing and implementing intercultural health policies that ensure access to quality and culturally appropriate sexual and reproductive health services. The Declaration establishes the right of

indigenous peoples to promote, develop and maintain their own institutions, which entails that States adopt measures to guarantee the collective rights of indigenous peoples to attain their right to health through their own systems, ancestral knowledge and health practices.

22. Over the past 20 years, culturally sensitive health policies and models have been developed in some countries, resulting in health systems that are more responsive to the culture and needs of indigenous peoples, and with greater representation of indigenous women.

23. For instance, there have been some fundamental legislative and policy advances, in Latin America in particular, as well as improvements to institutional frameworks. Some Constitutions explicitly recognize the identity and systems of indigenous peoples and the intercultural nature of the State, such as in Bolivia (Plurinational State of) and Ecuador. In 17 countries in the region, there are government entities responsible for intercultural health. Public policies have also been developed in different social sectors by using a cultural lens and promoting some form of indigenous participation in their design.

24. Participants shared the experience developed in some countries of the Andean region, where innovative strides have been taken to develop intercultural health models, predominantly in the area of maternal health. On the basis of strategic partnerships between the Continental Network of Indigenous Women of the Americas, the Indigenous Fund, the Andean Health Organization and UNFPA at both the regional level and nationally in Bolivia (Plurinational State of), Ecuador, Guatemala and Peru, initiatives were focused on strengthening the capacity of indigenous women's networks to conduct advocacy for the provision of quality and culturally acceptable maternal and reproductive health services. Programmes have contributed to legal reforms and the adoption of public policies and protocols on intercultural reproductive health; the recognition of the role of traditional birth attendants within the official health system; the generation of knowledge and of methodological and advocacy tools; and the increase in indigenous women's access to reproductive health services in selected regions. Building on these national experiences, the Commission on Intercultural Health of the Andean Health Organization is in the process of discussing the adoption of subregional basic standards on intercultural health to define objective and measurable requirements necessary in order to provide and monitor quality and acceptable intercultural maternal health services.

25. Participants drew some lessons from the above-mentioned case, as well as from other experiences reflected in the background documentation for the meeting, as follows:

(a) Culturally appropriate interventions cannot be designed in a vertical and top-down fashion. They require participatory processes for dialogue, consensus building and community ownership. Despite progress in setting standards, in many places programme implementation has not occurred with the effective participation of indigenous women;

(b) Health system monitoring frameworks still need to adequately capture the integrality of traditional health systems by developing indicators that reflect the complexity of intercultural health at all levels of the State administration and in its articulation at the community level. In that regard, the measurement of the

application of intercultural health standards has been easier at the local level with regard to service delivery points;

(c) Adopting laws is an important step in the process towards achieving intercultural health. However, changing the attitudes of health professionals and medical staff is a long undertaking requiring the integration of intercultural approaches in the school curriculum starting from basic to higher education, including technical health education. The need to develop incentives to encourage this learning process was also highlighted;

(d) National policies and programmes require government and donor support on a long-term basis. Unfortunately, the approach to intercultural health by donors has been limited to the support of legal and policy reform processes and the formulation of standards, on the assumption that indigenous communities can then take this work forward on their own. Unless structural factors of inequality and discrimination are addressed, indigenous peoples will remain in a disenfranchised position without the resources or technical assistance to succeed on their own;

(e) The promotion of intercultural health models has narrowly focused on maternal health. An intercultural lens should be equally relevant in other components of sexual and reproductive health, such as family planning, addressing teenage pregnancy, HIV prevention, treatment and care, and gender-based violence prevention and response.

26. While the notion of "cultural sensitivity" has been more in vogue in the policy arena in recent years, United Nations treaty bodies have consistently referred to "cultural acceptability" as one of the key components of the right to health. Cultural acceptability guides the design of services and promotes the active participation of indigenous peoples so that services are respectful of their cultures and found to be appropriate by their intended users. Cultural acceptability is not only a normative requirement but also an evolving concept that can benefit from the experience of indigenous peoples to help United Nations treaty bodies to further define its meaning and practical implications.

27. In the light of the above, some participants presented the concept of "cultural safety" as a minimum standard that goes beyond more conventional understandings of "cultural sensitivity". This concept analyses issues of power imbalances, institutional discrimination, colonization and relationships with hegemonic cultures and health systems of former colonizers with a view to ensuring that individuals and families feel safe in their bodies, lands and territories, but also in urban settings where indigenous peoples live and work. Cultural safety focuses on the understanding of "self" as a cultural bearer and the development of relationships that engender trust and respect. This means that the experience of colonialism, assimilation and genocide must be factored into the relationship between client or patient and service providers.

Maternal health and family planning

28. Participants shared their experiences and country evidence on access by indigenous peoples, in particular indigenous women, to family planning and maternal health services. In presentations by experts from Bangladesh and the Russian Federation, as well as experiences from other countries, geographic and economic issues were identified as key barriers preventing indigenous peoples from

accessing these services. In the case of the Russian Federation, the former Soviet Government implemented mobile clinics to reach out to indigenous peoples. While this model greatly contributed to improving the health conditions of indigenous women, girls and children, since the end of the Soviet era these clinics have been gradually dismantled as a result of shrinking financial flows. This experience underscores the need to sustain development efforts both by Governments and international development agencies. Unfortunately, as in Latin America, international development agencies are gradually scaling down their cooperation efforts in middle-income countries despite ongoing inequality gaps dramatically affecting the lives and well-being of indigenous peoples.

29. In the case of Bangladesh, it was noted that the discrimination faced by women and girls, particularly from rural areas, due to their sex and exacerbated by poverty was among the main factors explaining poor health outcomes. While current national health policy recognizes the need for special programmes for indigenous peoples living in remote locations, these newly designed programmes have not reached target communities and approaches have been predominantly top-down, without the involvement of indigenous women and girls in the inception process.

30. Access to accurate and relevant information is fundamental to both family planning and maternal care. How to communicate with indigenous communities and youth poses particular challenges. Experience shows that increased access to information on health care and contraception has not resulted in marked behavioural changes. Both messaging and transmission of information should be reviewed from an intercultural lens, including the use of local indigenous languages in accessible formats. Without effective communication of information, indigenous women will continue to be at risk of involuntary sterilization and will be limited in their ability to make sexual and reproductive choices.

HIV and AIDS

31. Experts noted that HIV had been a serious concern among indigenous peoples for many years. Despite a general perception that indigenous communities are at a lower risk because they live in remote areas and their communities are more cohesive, where data are available indigenous peoples are disproportionately affected by HIV. Therefore, experts stressed that, despite the lack of disaggregated data in many countries, it was safe to conclude that HIV is a serious problem affecting indigenous peoples, as it comes associated with stigma, discrimination, lack of sexuality education, lack of contraception and high levels of sexual violence, alcoholism and drug use, all of which are factors disproportionately affecting indigenous peoples. Thus, the lack of data should not be an excuse for inaction. More effort should be placed on preventive measures targeting indigenous peoples. However, indigenous peoples tend to be forgotten in global and national responses to the pandemic.

32. Participants referred to existing evidence that indigenous peoples affected by HIV have a long and enduring history of mistrust of health services, which results in poor access to health care, late testing for HIV and poor or no care and support for people living with HIV. Conversely, indigenous peoples are part of familial and cultural networks which need to be taken into consideration in the design and development of indigenous HIV prevention programmes.

33. Participants noted that people of all ages, from youth to elders, need to be involved in campaigns to prevent the transmission of HIV in indigenous communities. Indigenous peoples and communities need to have access to supportive education and testing environments which recognize and respect indigenous cultural values.

34. In response to high rates of HIV among indigenous peoples, a number of community-based initiatives have been developed which provide a viable and realistic alternative to non-indigenous-led initiatives to prevent the transmission of HIV among diverse indigenous peoples. Likewise, at the international level, a durable and sustainable global network of indigenous peoples and communities has been established to raise awareness of HIV and its impact on indigenous peoples.

35. Some experts presented a few global and national community initiatives providing clear evidence that, after three decades of HIV, indigenous communities are taking charge of strategies to prevent the ongoing transmission of HIV among indigenous peoples and to provide care and support for those living with HIV. For indigenous peoples, the international networks that have come together in response to HIV are fundamental to overcoming the challenges posed by HIV, such as the International Indigenous Working Group on HIV and AIDS, which was created soon after the adoption of the Toronto Charter: Indigenous Peoples' Action Plan on HIV and AIDS at the sixteenth International AIDS Conference, held in 2006.

36. These networks must be supported nationally and internationally to ensure the effectiveness of their work to overcome HIV and to ensure the realization of self-determination and the ongoing viability of indigenous peoples' communities for generations to come. The need to open up to partnerships with the private sector was deemed strategic in view of the current economic and aid environment. One example was shared from Chile, where the transport sector, which traditionally employs many indigenous workers, is working in partnership with indigenous communities to raise awareness on HIV prevention, voluntary testing and treatment.

Sexuality, taboos and education

37. Participants highlighted that sexuality was still a taboo subject among many indigenous communities across the globe. While in some cases the fact of "not talking about sex" with children and grandchildren may be perceived as inherent to the culture and traditions of indigenous peoples, in numerous other cases this silence results from the ideological and religious views that were imposed on them in the context of colonialism. Despite these processes, participants noted that many indigenous communities preserve traditional coming-of-age ceremonies and rites of passage, through which indigenous adolescents come to understand not only their identity but also what it means to take on adult responsibilities within themselves, their bodies and their communities.

38. Sexual education was identified at the meeting as a fundamental right to which everybody should be entitled and as a concrete intervention to build the knowledge and skills of indigenous adolescents and youth to be able to deal with their bodies and sexuality in safe and responsible ways. Furthermore, sexuality education should also target parents and grandparents to build their capacities for intergenerational dialogues on these issues. However, the general view was that, where available, sexuality education seldom promotes an integral view of sexuality and gender relations beyond basic biological aspects and the prevention of teenage pregnancy. It

was also noted that sexuality education is not specific to indigenous communities in its design, nor is it transmitted in ways that will help indigenous adolescents and youth to develop and apply their knowledge.

39. The lack of access to accurate and culturally safe sexuality education has a direct impact on unwanted pregnancies among teenage indigenous girls, compounded by increased levels of sexual violence and alcohol abuse, underscoring the need to ensure access to emergency contraception in ways that respect the right to privacy. Integral approaches emphasize the focus on education and school retention, as well as the development of critical bargaining skills and self-esteem, as opposed to more conventional prevention approaches that focus on blaming girls for being pregnant or scaring them over the negative consequences of teenage pregnancy.

40. Furthermore, there was a call for culturally appropriate sexuality education which integrates broader notions of gender equality, human rights and sexual and reproductive health and rights and respect for diverse sexual orientations and gender identities, including lesbians, gays, bisexuals, transgender, queer, questioning, asexual, intersex, two-spirited and other identities. There was also a call for the inclusion of indigenous adolescents and youth in the design of culturally safe sexuality education curriculums and in the development and expansion of youth peer education. In addition, participants noted the need to invest in intergenerational spaces of analysis and reflection where older women can share views and experiences about marriage and sexuality and the revival of coming-of-age ceremonies and rites of passage.

Harmful practices (female genital mutilation/cutting)

41. Notwithstanding the fundamental claim of indigenous peoples to respect and value their cultures, all experts unanimously acknowledged that not all cultural traditions are intrinsically beneficial. From that standpoint, culture should not be understood as a static or monolithic concept. In the same way that different population groups can have different interpretations of local cultures, these interpretations are in constant evolution and change. Ultimately, culture and tradition should not be invoked as a justification to violate the rights of an individual or a specific population group, whether women, children, indigenous persons living with HIV or others.

42. One practice examined at the meeting was the persistence of female genital mutilation/cutting among indigenous communities, predominantly in Africa and elsewhere. It was noted that the practice of cutting the genitalia of women during childhood or adolescence does not have medical reasons; it responds to gender constructs regarding the expected role of women in life and is a requirement for girls to transition from childhood to adulthood and marriageability.

43. Experts discussed four approaches that have been used to address female genital mutilation/cutting since it was placed at the top of the international human rights and development agenda at the International Conference on Population and Development in Cairo in 1994, namely the cultural/moral, health, social and legal approaches. In view of this persisting practice, participants underlined the importance of assessing what has and has not worked with each of these approaches while drawing lessons from those few places and experiences which have managed to eradicate the practice.

44. Participants concluded that all four approaches would probably be the most sensible way forward. While there was clear understanding that the rights of women and girls should always be respected and protected, participants noted that strategies to address harmful practices will succeed in changing behaviours only if a cultural lens is used so that change is promoted from within and owned by the community. Participants identified access to formal education as a long-term emancipator of indigenous women from female genital mutilation/cutting, while also emphasizing the need for culturally appropriate education and the participation of indigenous peoples in its design so that education is a vehicle for empowerment and not for cultural alienation.

Participation and accountability

45. Participation was a recurrent topic during the discussion. The need to include indigenous peoples in research, data collection and policy/programme design, monitoring and evaluation was underscored.

46. Similarly, the incorporation of indigenous women into both State-led and customary indigenous justice systems was found to be a critical way to ensure that more attention is given to the protection of sexual and reproductive health and rights, such as in cases of forced sterilization, sexual violence and discrimination within health systems.

47. Participants concluded that protecting and addressing the health of indigenous peoples requires a framework of sexual and reproductive justice that effectively works towards addressing issues of systemic racism, colonization, violation of land rights, language discrimination, incarceration and other related human rights violations.

IV. Conclusions and recommendations

48. The Permanent Forum should include in its discussions on the right to health the issue of sexual and reproductive health and rights. It should ensure the consistent use of language — either "sexual and reproductive health and rights" or "sexual and reproductive rights" — in accordance with United Nations treaty monitoring bodies and the outcomes of the International Conference on Population and Development beyond 2014 review, including the Bali Global Youth Forum Declaration, the Montevideo Consensus on Population and Development and the report of the International Conference on Human Rights.

49. States must take legal, policy, budgetary and other special positive measures to address sexual and reproductive inequalities by tackling the structural causes of those inequalities, which include the legacy of colonization and violence, and the intersectional discrimination that indigenous women and girls face owing to their ethnicity and gender. National and subnational protection mechanisms with a mandate to address discrimination against indigenous peoples should be strengthened with a view to prioritizing and addressing intersecting discrimination in the context of sexual and reproductive rights.

50. States must ensure a legal environment that enables indigenous women and girls to exercise their sexual and reproductive rights. This includes reviewing national laws and policies to ensure that they are in compliance with international

human rights law, removing barriers to accessing sexual and reproductive information and services, and ending the criminalization of reproductive health-care services and consensual sexual conduct. Furthermore, States must ensure that indigenous women and girls have meaningful access to effective legal remedies if their sexual and reproductive rights are violated.

Participation

51. States must respect the full and effective participation of indigenous peoples in the formulation, implementation, monitoring and evaluation of sexual and reproductive health and education policies and programmes, as well as in the development of laws and standards relevant to indigenous children, adolescents and youth. Information on laws, policies and budgets related to sexual and reproductive rights and health must be made available to indigenous peoples in a transparent and timely manner and in accessible formats, including in their own languages. Indigenous organizations participating in the above-mentioned legal and policy processes must include the voices and perspectives of indigenous women, girls, men and boys, traditional leaders, traditional healers and midwives, persons of diverse gender identities and sexual orientations, sex workers, indigenous persons with disabilities and those living with HIV/AIDS.

52. Indigenous peoples should engage in multisectoral and cross-disciplinary dialogues with policymakers, economists, academics, women's advocacy groups, health practitioners and other relevant stakeholders to promote positive changes in laws, policies and practices pertaining to sexual and reproductive health and rights. In this regard, they should especially collaborate with both indigenous and non-indigenous parliamentarians in the drafting of laws and the oversight of public policies and budgets, advocating in particular for the adoption of culturally appropriate laws.

53. States and UNFPA should promote the rights of indigenous youth at the regional and national levels, including through their participation in the process leading to the design and implementation of the International Conference on Population and Development beyond 2014, and, to the extent possible, ensure their participation in discussions led by UNFPA on the post-2015 development agenda.

54. The Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of indigenous peoples should continue to support the voices, views and recommendations of indigenous people living with disabilities in political and policy processes affecting their sexual and reproductive health.

Intercultural health

55. States and United Nations entities should secure and increase resources for intercultural health services in indigenous communities in accordance with the right to self-determination of indigenous peoples, as well as quality of care standards that are culturally appropriate, incorporating the standard of "cultural safety".

56. States should adopt measures to recognize, respect and strengthen indigenous traditional health systems (traditional midwives, healers) and, in collaboration with these systems, design a comprehensive and intercultural package of sexual and reproductive health services, including contraception, maternal care, safe abortion

and post-abortion services, spiritual support, traditional healing, aseptic techniques, HIV prevention and treatment, appropriate referral systems between indigenous and national health systems, and any other services as indicated in paragraph 7.6 of the Programme of Action of the International Conference on Population and Development.

57. Successful programmes on intercultural health models, some of which are in place in South and Central America and the Caribbean, should be assessed and eventually scaled up and expanded to other regions, including through South-South and indigenous-to-indigenous cooperation, such as international networks of indigenous women and indigenous youth, communities of practice, and platforms for intergenerational knowledge-sharing.

58. States should establish innovative, intercultural and integral models to improve general access to health care for indigenous peoples, particularly women and girls, who are nomadic or live in remote locations, such as through the development of a network of integrated and permanently operating mobile clinics for primary health care and the application of the "doctor to patient" principle. United Nations entities and other development cooperation actors are urged to develop national and subnational capacities, provide technical assistance and allocate specific resources to implement programmes managed by indigenous women and programmes that provide access to intercultural services and education for their sexual and reproductive health and safe motherhood as a human right.

59. In order to ensure equal health outcomes for indigenous peoples, States must ensure that sexual and reproductive health information and services are available, accessible, acceptable and of high quality. This means that information and services are adequate in number, easily accessible and in close proximity to indigenous areas. They must also be provided free of charge or at a low cost, in languages that indigenous women understand, and on the basis of free, prior and informed consent. Sexual and reproductive health services (or service providers) should also fully respect and incorporate the views of indigenous women and girls concerning their sexual and reproductive health and rights.

60. In close cooperation with indigenous peoples, States and academic institutions, including universities, should provide training and capacity-building for public health officials and health-care workers at all levels to understand and respect indigenous health systems (midwives, healers and other knowledge bearers) and indigenous medicines, as well as to collaborate in building and supporting intercultural health systems.

Education

61. States must develop, in close cooperation with indigenous youth, education programmes on human rights, sexual and reproductive health and rights, gender equality, sexuality education and life skills and ensure that such education is provided to indigenous children and youth in both formal and informal settings. It is recommended that States and United Nations entities support and provide resources for indigenous-specific sexuality education that is culturally safe. The Permanent Forum should conduct a study on the linkages of sexuality education with the restoration of rites of passage and coming-of-age ceremonies. Furthermore, it is recommended that States, United Nations entities and indigenous communities support opportunities for indigenous youth peer education and mentorship in

relation to sexuality and relationships, as well as cultural teachings that are empowering, knowledge-based and free of stigma or judgement.

Interconnections

62. Considering their impact on the sexual and reproductive health and rights of indigenous peoples, we call for a legal review of United Nations chemical conventions, in particular the Rotterdam Convention, to ensure that they are in conformity with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities.

63. States must halt the export and import of banned and unregistered pesticides from countries that prohibit their use in their own country as a case of environmental racism and environmental violence with proven and devastating impacts on reproductive and sexual health, in particular maternal and child health.

64. Relevant United Nations entities should conduct a study, in partnership with indigenous peoples' organizations, that documents the linkage between environmental violence, including the operations of extractive industries, chemical pollution and the destruction of the indigenous habitat, and the sexual and reproductive health of indigenous peoples, as well as issues pertaining to sexual exploitation, trafficking of indigenous girls and sexual violence, with concrete recommendations on protection measures.

Gender-based violence

65. States should recognize different gender identities and sexual orientations within indigenous communities and acknowledge that these identities are old and sacred in the world view of many indigenous nations and communities. States should take measures to prevent and protect against discrimination and violence of indigenous lesbians, gays, transgender, two-spirited, queer, questioning, asexual, intersex and gender non-conforming youth and peoples. It is also recommended that United Nations treaty monitoring bodies, including the Human Rights Committee and the Committee on the Elimination of Discrimination against Women, urge States to comply with their international human rights obligation of equality and non-discrimination and to support the efforts of indigenous peoples to address gender-based discrimination and violence from a broad understanding of gender diversity.

66. States, United Nations entities and non-governmental organizations should support the meaningful and effective participation of indigenous peoples, in particular those involved in sex work and street economies, in policies, programmes and other measures to address the impact of heightened violence, stigma, discrimination, criminalization and HIV.

67. States and United Nations entities should promote the active participation of representatives of indigenous peoples, including indigenous women and youth, at the forty-seventh session of the Commission on Population and Development, which will review the implementation of the Programme of Action of the International Conference on Population and Development. The agreed conclusions of the Commission should be discussed at the thirteenth session of the Permanent Forum on Indigenous Issues, with a focus on those pertaining to indigenous peoples' rights,

including their sexual and reproductive rights, as reflected in the Montevideo Consensus on Population and Development and other outcomes of the International Conference on Population and Development beyond 2014 review process.

68. It is recommended that United Nations country teams strengthen and integrate the rights of indigenous women and youth in developing strategies and national and subsectoral plans, particularly, but not exclusively, in the areas of sexual and reproductive health and rights, maternal mortality and morbidity, as well as in policies and plans aimed at adolescents and young people.

Data collection and disaggregation

69. The Permanent Forum should co-host a meeting with organizers of demographic and health surveys, other national health statistical units and experts in the sexual and reproductive health of indigenous peoples to share experiences and advance the development and implementation of guidelines for including indigenous peoples in demographic and health surveys and administrative data systems.

70. The Permanent Forum should coordinate with the World Health Organization, UNFPA and other relevant entities in the formulation of key intercultural standards and indicators of quality of care to be considered in the definition of a future post-2015 goal on universal health coverage that includes the sexual and reproductive health of indigenous peoples.

71. States should ensure universal civil registration that is consistent with the cultural views and choices of indigenous peoples and take specific measures to cover those living in remote locations. Health systems should have the financial and technical means to ensure a continuous process of collecting and updating administrative data on indigenous peoples, including indicators on intercultural health, to be able to monitor what is done in the area of sexual health and reproductive rights. Furthermore, they should ensure the participation of indigenous peoples and organizations in the design of surveys relating to health, while census and survey officials should be trained on how to engage with indigenous peoples in culturally appropriate ways.

72. The Permanent Forum should coordinate with other agencies and actors on the development and implementation of an international research project on the sexual and reproductive health of indigenous peoples, ensuring an active partnership with indigenous peoples and organizations in all stages of the project. Such research would cover all areas included in the present report.

73. The participants commend the indigenous women who participated in the World Conference of Indigenous Women, held in Lima in 2013, support the recommendations that were made regarding sexual and reproductive health and recommend that States support the plan of action developed at the Conference.

74. States should incorporate the agreements on indigenous peoples in the outcome of the Montevideo Consensus on Population and Development and the post-2015 development agenda. More specifically, States should:

(a) Allocate specific resources for the implementation of programmes carried out by indigenous women, especially in rural and remote areas, to ensure access to public services and intercultural education that can guarantee their sexual and reproductive health and safe maternity as a human right;

(b) Acknowledge the strong impact of violence in its multiple manifestations on the integral health of indigenous women, including the impact of environmental contamination, extractive industries, mining, the use of pesticides and toxic substances;

(c) Implement actions with the participation and the consent of indigenous women to prevent and eliminate violence.

75. States and United Nations entities should include the situation of urban indigenous women living in cross-border areas in the design and delivery of sexual and reproductive health services, ensuring their participation and raising awareness of their problems, such as violence and human, drug and weapons trafficking.

HIV and AIDS

76. The Joint United Nations Programme on HIV/AIDS (UNAIDS), international non-governmental organizations and other relevant stakeholders should ensure that indigenous peoples living with HIV are meaningfully engaged in programmes in ways that acknowledge the diverse skills, experiences and expertise they bring to programme development and delivery in accordance with the policy of greater involvement of people living with HIV and AIDS. They should also ensure that indigenous peoples and communities are involved in all aspects of HIV policy and programming in ways that acknowledge and respect the rights and needs of indigenous peoples.

77. United Nations agencies, including UNAIDS and UNFPA, should work together with the Permanent Forum to support and promote international indigenous HIV networks, provide adequate resources to ensure the growth and sustainability of international indigenous HIV networks and collaborations and build the capacity of indigenous peoples and communities by increasing the participation of indigenous peoples in international HIV networks.

78. UNAIDS should ensure the recognition of indigenous peoples as a particular population group with heightened vulnerability to HIV so that specific mechanisms, strategies and resources are allocated to indigenous communities and indigenous-led initiatives in the response to HIV.

79. States should implement best practice HIV models and programmes in indigenous communities and ensure that they are delivered in a way that is respectful of the rights and needs of indigenous peoples.

Harmful practices

80. Relevant United Nations agencies should review what works and what does not work when combating female genital mutilation, in order to ensure an integrated use of the four frameworks (public health, human rights, social and cultural) to eradicate female genital mutilation. A thorough documentation of best practices and lessons learned in eradicating female genital mutilation is recommended.

81. Formal education is a long-term emancipator of indigenous women from female genital mutilation. Therefore, States, United Nations agencies and other international cooperation actors must provide continued support for the education of indigenous girls at all levels by coordinating with local authorities and traditional indigenous leaders and women's organizations to include intercultural sexuality

education, gender equality and human rights in schools in local languages and by supporting community-driven initiatives that empower women and girls with information, knowledge and life skills for the prevention of female genital mutilation and child, early and forced marriages.

Humanitarian affairs

82. United Nations agencies with a mandate on humanitarian affairs, particularly the United Nations High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs of the Secretariat and the United Nations Children's Fund should make available for indigenous peoples, especially women, girls and youth, who are refugees or live in a situation of humanitarian crisis, health services, in particular relating to sexual and reproductive health and rights, including through health workers who speak their languages.

83. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) should, in close collaboration with other United Nations agencies, help to build the capacity of indigenous women living in conflict-affected areas and in situations of humanitarian crisis, in particular for women-headed households.

84. United Nations entities that have a mandate to defend human rights should, in collaboration with indigenous peoples living in situations of conflict and humanitarian crisis, put in place early warning mechanisms to prevent sexual violence, in particular against indigenous women and girls.

Annex I

Agenda and programme of work

Date time	*Item programme*	
Wednesday, 15 January 2014		
10-10.30 a.m.		Opening of the workshop by the Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs
	Item 1	Election of the Chair and the Rapporteur
10.30 a.m.-1 p.m.	Item 3	Intercultural approach to sexual and reproductive health: access and quality
		Presentation: Mirna Cunningham
3-6 p.m.	Item 4	Harmful practices, gender equality, discrimination and violence
		Presentation: Agnes Leina Ntikaampi
Thursday, 16 January 2014		
10 a.m.-1 p.m.	Item 5	Maternal health and family planning
	Item 6	HIV/AIDS and sexually transmitted infections
		Presentations:
		Larisa Abryutina Tuku Talukder Clive Aspin
3-6 p.m.	Item 7	Sexuality, culture taboos and education
		Presentation: Jessica Danforth
Friday, 17 January 2014		
10 a.m.-1 p.m.	Item 8	United Nations system:
		– World Conference on Indigenous Peoples (September 2014)
		– International Conference on Population and Development beyond 2014 (September 2014)
		– Post-2015 development agenda

Date time	*Item programme*	
		Presentations:
		Secretariat of the Permanent Forum on Indigenous Issues
		United Nations Population Fund
3-6 p.m.	Item 9	Adoption of the conclusions and recommendations

Annex II

List of documents[a]

Concept note for the international expert group meeting on the theme "Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples"

Programme of work for the international expert group meeting on the theme "Sexual health and reproductive rights: articles 21, 22 (1), 23 and 24 of the United Nations Declaration on the Rights of Indigenous Peoples"

Paper submitted by Larisa Abryutina

Paper submitted by Clive Aspin

Paper submitted by Jessica Danforth

Paper submitted by Mirna Cunningham

Paper submitted by Agnes Leina Ntikaampi

Paper submitted by Tuku Talukder

[a] All the reports and other documents submitted during the meeting can be found on the website of the secretariat of the Permanent Forum on Indigenous Issues (http://undesadspd.org/IndigenousPeoples/EGM2014SexualHealthandReproductiveRights.aspx).

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Permanent Forum on Indigenous Issues
Thirteenth session
New York, 12-23 May 2014
Item 8 of the provisional agenda*
Comprehensive dialogue with United Nations agencies and funds

Report of the Inter-Agency Support Group on Indigenous Peoples' Issues annual meeting for 2013

Note by the secretariat

The annual meeting of the Inter-Agency Support Group on Indigenous Peoples' Issues was convened in New York on 22 and 23 October 2013. It was hosted by the United Nations Children's Fund, in accordance with the Support Group's terms of reference and the practice established in 2002 of rotating the chair annually among its members.

The Inter-Agency Support Group discussed, among other matters, key issues regarding the preparations for the World Conference on Indigenous Peoples, to be held in September 2014, and the milestones leading towards the formulation of the post-2015 development agenda and sustainable development goals. The annual meeting provided a platform for agreement on a coherent framework for the preparation of technical papers to serve as resource papers for the World Conference, as well as the post-2015 development agenda process.

* E/C.19/2014/1.

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Report of the Inter-Agency Support Group on Indigenous Peoples' Issues annual meeting for 2013

I. Background

1. As Chair of the Inter-Agency Support Group for 2013-2014, the United Nations Children's Fund (UNICEF) hosted the annual meeting of the Support Group for 2013. It will serve as Chair of the Support Group until the end of the thirteenth session of the Permanent Forum on Indigenous Issues, to be succeeded in that role by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

A. Attendance

2. The meeting was attended by focal points for indigenous peoples' issues from over 15 international agencies, the Chair of the Permanent Forum, Paul Kanyinke Sena, and by Permanent Forum members Alvaro Esteban Pop and Mirna Cunningham. Special guests included the Permanent Representative of Mexico to the United Nations, Ambassador Jorge Mario Montaño y Martinez, the International Representative of the Sámi Parliament of Norway, John Henriksen, and the Co-Chair of the Global Coordinating Group of the 2014 World Conference on Indigenous Peoples and Director of the Red de Mujeres Indígenas sobre Biodiversidad de America Latina y el Caribe, Florina Lopez. The list of participants is contained in annex I.

3. In keeping with the established practice of previous meetings of the Support Group, it was agreed by the participants that the representative of the host agency (Beatrice Duncan of UNICEF) and the chief of the secretariat of the Permanent Forum (Chandra Roy-Henriksen), would be Co-Chairs of the meeting. The meeting adopted its provisional agenda.

B. Opening of the meeting

4. The UNICEF Principal Adviser on Gender and Rights, Anju Malhotra, opened the meeting. In her address, she noted that with the World Conference on Indigenous Peoples fast approaching, and the post-2015 development agenda still open for inputs hence, the Support Group had solid opportunities to address inequalities in many sectors. She urged Support Group members to identify a few priorities for the work of the Group, with corresponding key messages, and appealed to keep the rights of indigenous children and adolescents in the forefront of deliberations.

5. The Chair of the Permanent Forum congratulated UNICEF for its work on behalf of children, adolescents and youth and recognized the Support Group's fundamental role in supporting the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. He urged agencies that were not already involved to become active members of the Support Group. Participating agencies thanked UNICEF for hosting the meeting and for developing a strategic agenda for the occasion.

6. Mr. Pop noted the progress made at the regional and global levels during his three years as the Permanent Forum's focal point for indigenous children and youth. For example, the 2012 report of the Secretary-General on the status of the Convention on the Rights of the Child (A/67/225), focused on the rights of indigenous children and the extreme forms of prejudice and discrimination especially faced by girls. The adolescent-friendly version of the United Nations Declaration on the Rights of Indigenous Peoples, produced by UNICEF, in collaboration with the secretariat of the Permanent Forum and the Global Indigenous Youth Caucus, has helped to ensure that indigenous youth are familiar with its provisions. The study entitled "Breaking the silence on violence against indigenous children", produced by UNICEF, the International Labour Organization, the United Nations Population Fund (UNFPA), and the Office of the Special Representative of the Secretary-General on Violence against Children, and a situation analysis of indigenous children in Central America, produced by the UNICEF Regional Office for Latin America and the Caribbean, are examples of excellent responses to the call by the Permanent Forum to agencies and funds to contribute to detailed analysis on the situation of indigenous children.

7. The outgoing Chair of the Support Group, John Scott, from the secretariat of the Convention on Biological Diversity, thanked the UNICEF Principal Adviser on Gender and Rights for her participation in the meeting and noted that high-level support by United Nations agencies is critical to the Group's work of advancing the rights of indigenous peoples. He noted the importance of the Convention on Biological Diversity to indigenous peoples and emphasized that traditional knowledge should be protected, preserved and promoted, among other things, for its increasingly recognized contribution to conservation and the sustainable use of biological diversity.

8. The Director of the Division for Social Policy and Development, Department of Economic and Social Affairs of the Secretariat, Daniela Bas, expressed satisfaction and support for the work of the Support Group.

II. Preparations of the Inter-Agency Support Group for the World Conference on Indigenous Peoples

9. In the follow-up to the annual meeting of the Support Group in 2012, the main objective of the meeting was to define the Group's strategic contributions to the World Conference on Indigenous Peoples, including reflections towards the post-2015 development agenda and the sustainable development goals.

10. The secretariat of the Permanent Forum shared a calendar of upcoming meetings and consultations in which the Permanent Forum has a direct or indirect role, which will contribute to the preparatory process of the World Conference. Several other meetings were identified by participants. These have been consolidated (see annex II), and will be updated regularly in the lead-up to the Conference, with contributions from all agencies.

11. In an effort to provide meaningful inputs to the World Conference, the Support Group had previously decided to develop a set of collaborative thematic papers to serve as background information and analysis on key issues. The papers will also

lay the foundation for developing and sharing common strategic messages and examples of good practice in the preparatory stages of the Conference.

12. The presentation and discussion of the draft thematic papers were therefore the key focus of the meeting. The seven themes and their lead agencies are the following:

(a) Protection from violence, exploitation and abuse (UNICEF and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women));

(b) Participation, governance and human rights (United Nations Development Programme (UNDP));

(c) Education (United Nations Educational, Scientific and Cultural Organization (UNESCO));

(d) Health (Pan American Health Organization/World Health Organization (PAHO/WHO));

(e) Indigenous persons with disabilities (Department of Economic and Social Affairs/secretariat of the Convention on the Rights of Persons with Disabilities);

(f) Access to reproductive health services, including HIV/AIDS prevention and treatment (UNFPA);

(g) Land rights, food security, environment and climate change (Food and Agriculture Organization of the United Nations (FAO)).

13. Two additional papers were proposed: a paper on the right to participation of indigenous peoples was accepted, with OHCHR as the lead agency. This would allow the paper on participation, governance and human rights to focus on governance. Another paper on gender equality and women's empowerment was suggested, with UN-Women as the lead agency.

14. Throughout the discussions on current and future thematic papers, the importance of key messages from the Support Group was noted repeatedly. Participants therefore decided that key messages would be developed around the four themes of inequality, governance, gender and a human rights-based approach to development, as being intimately linked to the World Conference and the post-2015 development agenda.

15. The absence of several agencies in the Support Group was observed and identified as an issue that had been raised at previous meetings of the Group. Participants requested that the secretariat of the Permanent Forum provide support in strengthening the membership in the Support Group by engaging new members whose work is relevant to indigenous peoples, and by mobilizing others to take on a more active role.

16. The secretariat of the Permanent Forum presented General Assembly resolution 66/296 on the organizational arrangements for the World Conference (also known as the modalities resolution). This was to assist the Support Group to have a better appreciation of its role in the World Conference and its preparations. Support Group members were urged to consider supporting the participation of indigenous peoples, in particular women and youth, and to advocate for positive outcomes of the Conference.

17. A panel of distinguished guests provided a briefing on the World Conference, which included the two co-facilitators for the modalities resolution, Ambassador Montaño y Martinez and Mr. Henriksen, as well as Ms. López.

18. A Permanent Forum member, Mirna Cunningham, explained that in December 2010, the General Assembly had decided to organize a high-level event in 2014, during its sixty-ninth session, to be known as the World Conference on Indigenous Peoples. Following a meeting in Copenhagen in January 2011, preparations began that year with the establishment of the Global Coordinating Group. Following from this, several regional and national meetings were held, with the outcomes feeding into the Global Indigenous Preparatory Conference for the World Conference on Indigenous Peoples, held in Alta, Norway, from 10 to 12 June 2013.

19. The Alta outcome document defines four overarching themes to be addressed by the World Conference: (a) indigenous peoples' lands, territories, resources, oceans and waters; (b) United Nations system action for the implementation of the rights of indigenous peoples; (c) the implementation of the rights of indigenous peoples; and (d) indigenous peoples' priorities for development with free, prior and informed consent. Ms. Cunningham highlighted that the Economic Commission for Latin America and the Caribbean (ECLAC) had made an important contribution to the World Conference by producing a study on the situation of indigenous peoples in Latin America and the Caribbean. She noted the generous contribution of the Ford Foundation towards supporting the participation of indigenous peoples in the preparatory meetings and the Conference, and the lead role that the Government of Mexico was taking with respect to the Conference, including the convening of a group of "Friends of the World Conference". Ms. Cunningham noted that overall the World Conference would provide an opportunity to review what United Nations agencies and Governments have undertaken so far to support the implementation of the objectives of the Second International Decade of the World's Indigenous Peoples as well as the Declaration. She also emphasized the need for a strong outreach and communication strategy in order to ensure the high visibility of the conference outside of the United Nations system.

20. Ambassador Montaño began his remarks by recalling a similarly intensive planning process for the World Summit on Children in 1990 and he stressed the importance of the outcome of the World Conference being focused on implementation rather than on commitments. He stressed the strong public commitment of the Government of Mexico and the Secretary-General to ensuring the success of the Conference. The next preparatory meeting would be held in Mexico City at the National Anthropological Museum, from 2 to 4 April 2014. He expressed thanks for the cooperation of ECLAC in providing technical assistance for the meeting and noted that the cooperation of other regional commissions could also be useful.

21. Mr. Henriksen stated that the general rules and procedures of the General Assembly posed challenges to ensuring the wide participation of indigenous peoples in all aspects of the World Conference. A number of Governments, however, had supported flexibility in procedures, so as to allow the strongest possible participation of indigenous peoples in the Conference. Important outstanding issues included the nomination of co-facilitators for the outcome document of the Conference; deciding the themes for the round tables and interactive panel; deciding the co-chairs for those sessions; identifying representatives of indigenous peoples'

organizations to speak in the sessions; and defining an opening ceremony for the Conference involving indigenous peoples. He stressed that the outcome document would be concise and action-oriented and would address the "enormous gap between recognized rights at the international level and realities on the ground". He urged Support Group members to explore the possibilities for individual or joint side events at the Conference.

22. Ms. López summarized the challenging process that led to the Alta outcome document. She stressed the importance of agency involvement in the remaining months of preparatory consultations towards the World Conference. She reiterated the four priority issue themes of the Alta outcome document as the basis for the priorities and outcomes of the World Conference and emphasized the importance of Support Group members' active support.

23. Given that individual agencies had their own mandates and complex bureaucracies, and in order to secure high-level participation from United Nations agencies, Support Group members emphasized the need for quick resolution on the themes of the round tables and the interactive panel discussion. This would allow Support Group members and their heads of agencies to decide how best to participate (jointly or individually).

24. The World Bank noted that it was currently updating its environmental and social policies, including its policy on indigenous peoples. To that end, a global dialogue had begun, with one consultation already held in the Russian Federation and consultations to be held in South-East Asia and China. The World Bank was preparing case studies for the World Conference on: (a) land rights and land management; (b) economic development and sustainability; (c) government and institutional strengthening; and (d) public policies.

25. The International Fund for Agricultural Development (IFAD) noted that it had taken very seriously the call for support to the World Conference by providing a grant of almost $1 million for enabling the participation of indigenous peoples during and after the Conference. IFAD welcomed the Alta outcome document and announced that it stood ready to participate in the Conference at the highest level. Other agencies welcomed and highly applauded the exceptional efforts of IFAD.

26. Reinforcing earlier observations, the panellists conveyed a number of key messages. United Nations agencies, and the Support Group as a whole, should actively discuss the World Conference with Member States and establish their own levels of support. The themes for the round tables and the interactive panel discussion should be defined in the coming months. Likewise, agencies may wish to participate in the informal interactive hearing that is to take place no later than June 2014, as well as in the informal consultations on the outcome document of the Conference. Agencies should not wait for their role to be defined but should instead take a proactive approach. Support Group members were urged to advocate within their agencies for a review of how their organizational programming supports implementation of the Declaration, taking into consideration efforts related to the Second International Decade on the World's Indigenous Peoples and linkages with the post-2015 development agenda. The panellists noted that at the Conference, heads of agencies should be able to announce how their agencies intend to strengthen their work to support Member States in realizing the rights of indigenous peoples and implementing the Declaration. The panellists emphasized that agencies should not wait for top-level approaches. A challenge was issued to agencies to

identify four or five individuals with global name recognition to act as "goodwill ambassadors" on behalf of the Conference.

27. The panellists underscored that, in the modalities resolution, the General Assembly had called for the inclusive participation of women, youth and persons with disabilities in the World Conference. All those closely involved in the preparations for the Conference agreed that regional participation should be equitable. The co-chairs of the round tables and interactive discussions will present written summaries of the proceedings, which should have an official status. They agreed that the Global Coordinating Group and the Permanent Forum could organize one or more meetings with the heads of agencies during the thirteenth session of the Permanent Forum.

28. The Global Coordinating Group was taking stock of all the requests that indigenous peoples had tabled to the United Nations system and agencies over the years. For example, many indigenous peoples and their representative organizations were of the view that some United Nations agencies had not established mechanisms for the effective participation of indigenous peoples in their work.

29. Ms. Cunningham brought to the attention of participants the forthcoming World Conference of Indigenous Women, to be held in Lima from 28 to 30 October 2013 and noted that the outcome document from that gathering would integrate elements from the Alta outcome document, proposals for the post-2015 development agenda and the Programme of Action of the International Conference on Population and Development.

30. IFAD noted that agencies could make progress in advocating for the World Conference of Indigenous Women, even if budget allocations were limited. For example, in the months preceding that Conference, statements by heads of agencies could include reference to the World Conference on Indigenous Peoples. Indigenous leaders could also be invited to participate in board meetings of the United Nations agencies, while the Support Group could participate as a body in the preparatory meeting to be held in Mexico in April 2014 and in informal meetings to be held in New York in the same year.

31. The panellists thanked the Support Group for the invitation to the meeting and the opportunity to participate in a dialogue with its members. They emphasized the importance of the process leading towards the World Conference on Indigenous Peoples, and noted that it was a beginning, not the finish line.

32. As Chair of the meeting, UNICEF summarized several ways that agencies should be involved, as decisions about themes were taken and as the heads of agencies were approached for their agency's engagement. In that regard, agencies should:

(a) Develop substantial thematic papers, which will be a technical contribution to the World Conference and its related processes;

(b) Ensure that the thematic papers are part of the documentation for the World Conference preparatory meetings;

(c) Develop key messages on inequality, governance, gender and a human rights-based approach to development and ensure their dissemination within all agencies;

(d) Participate in informal consultations, interactive hearings, and round tables. At a later time, the Support Group will determine which head of agency may be best positioned to make a statement on behalf of the Group at the World Conference;

(e) Organize one or more side events, including outside of the United Nations Secretariat, and ensure that each agency undertakes an internal stock-taking of its support to the implementation of the Declaration, with actions defined for the post-Conference time period;

(f) Support indigenous peoples and their issues in bilateral and multilateral meetings, including during negotiations of resolutions (such as during the General Assembly) and of the outcome document;

(g) Provide funding to support the participation of indigenous peoples in the preparatory consultations and the Conference. In this respect, Ms. Cunningham noted that 10 foundations had created a coalition in support of the Conference.

33. A request was made by IFAD for more frequent communication among Support Group members, given that the next major meeting of the Group would be held in May 2014 and much would happen before that meeting. UNICEF agreed to hold teleconferences every two months, as a minimum interim channel for information-sharing.

34. The secretariat of the Permanent Forum recalled that in the previous teleconference of Support Group focal points, a task force on communication had been proposed. The Department of Information of the Secretariat explained that indigenous peoples' issues competed for attention with many other issues. Thus, the need for a strong communication strategy for the World Conference, with unified messages and strong spokespersons, was of key importance. In that regard, the Department would communicate with the media and external relations staff in each agency in the coming months to explore collaboration on a common communication approach to the Conference.

35. The chief of the secretariat of the Permanent Forum noted that owing to budgetary constraints, the upcoming thirteenth session of the Permanent Forum would feature only 10 official reports. All other reports and documents would be made available electronically on the Permanent Forum website, in the language of submission.

III. Presentations on recent studies

36. Anthroscape, a consulting firm based in the United Kingdom of Great Britain and Northern Ireland and hired by the UNICEF, UNFPA and UNDP field offices in the Republic of Congo, presented the research findings of a recent study carried out in that country entitled "Indigenous peoples' institutions, values and practices: lessons for the implementation of indigenous children's and women's rights". The study examines intra-ethnic relations, maternal and child health, justice, economic rights, education, violence and relations with outsiders among three groups: the Mbendjele, Tswa and Bongo. One overarching conclusion the study makes is that these indigenous groups face deeply ingrained discrimination at all levels and in all sectors. The team presented a set of programme priorities and recommendations to the Support Group. UNICEF noted that the terms of reference of the study were

available to any agency wishing to undertake similar research. Anthroscape stated that the methodology could be adapted for use anywhere in the world.

37. PAHO/WHO presented on the health of indigenous peoples in Latin America and noted the lack of available data related to health indicators for the region, as well as low access to and utilization of available health services. It remarked that coordinated studies on specific health-related issues were needed to respond to a number of critical concerns affecting the health of indigenous peoples, including neglected diseases. Moreover, indigenous peoples living in highly vulnerable conditions should be considered. In that regard, PAHO/WHO made a special reference to children living with their parents in prison as well as unregistered children. PAHO/WHO is committed to advancing the health agenda of indigenous peoples and is developing a strategy on cultural diversity in consultation with various United Nations agencies, key stakeholders and experts.

IV. Review of the terms of reference for the Inter-Agency Support Group

38. The secretariat of the Convention on Biological Diversity presented revised terms of reference of the Support Group, leading participants through each suggested change and reaching agreement on a final, revised version through consensus (for the text of revised terms of reference, see annex III).

V. Follow-up to the twelfth session of the Permanent Forum on Indigenous Issues, with a focus on Africa

39. Under this item, agencies reported on efforts made in response to recent recommendations of the Permanent Forum with a focus on Africa, the regional focus of the Permanent Forum at its twelfth session (see E/2013/43-E/C.19/2013/25, chap. I.B).

40. Participants described and explored the possibilities for joint action among agencies on the basis of initiatives already planned. The Convention on Biological Diversity noted that modest funds were available for training indigenous trainers in Africa and that it intended to organize three workshops in 2014, while welcoming the participation of other Support Group members.

41. UNICEF reminded participants that in paragraph 36 of the report on its twelfth session (ibid.), the Permanent Forum called upon UN-Women, UNICEF, UNFPA, UNDP and other United Nations entities to build the capacity of indigenous women in Africa. UNICEF suggested that two or three countries be identified where two or more agencies could work together on implementing the recommendation. UNICEF noted that it had taken note of paragraph 37 of the report, dealing with the education of indigenous children in Africa, and that it would discuss the possibilities for stronger programming in this area, particularly within the context of the indigenous girl child. UNICEF also commented that a case could be made for an inter-agency report on the situation of indigenous peoples in Africa, in order to measure the progress made in recent years.

42. The Chair of the Permanent Forum stressed the importance of the Permanent Forum's recommendation relating to extractive industries and other large-scale development projects. He highlighted the Permanent Forum's recommendation that African States must respect the Declaration, in particular the right of indigenous peoples to free, prior and informed consent (ibid., para. 38).

VI. Adoption of the report and/or recommendations and results

43. Support Group members decided to provisionally adopt the actions arising from the meeting. It was agreed that the meeting report and its actions (see annex IV) would be adopted after further electronic consultations and subsequently submitted to the Permanent Forum for consideration at its thirteenth session.

44. Representatives of the Permanent Forum, its secretariat and UNICEF extended their thanks to all the participants for the rich and productive discussions during the two-day annual meeting. The Vice-Chair noted the work of Support Group members on the thematic papers and the progress made by the Permanent Forum in ensuring that indigenous peoples would be visible and present in the post-2015 development agenda. He encouraged members to be proactive in the months leading up to the World Conference, by attending preparatory meetings, interactive hearings and other consultations, especially at the country level. He urged every agency to update or develop a policy on indigenous peoples and encouraged Support Group members to reach out to the 10 newly appointed members of the Permanent Forum. The Chair of the Permanent Forum concluded by saying that the preparations for the World Conference had generated many hopes among indigenous leaders and should be a catalyst for further action.

Annex I

List of participants

Agency/organization	*Name*	*Title*
Department of Economic and Social Affairs/secretariat of the Permanent Forum on Indigenous Issues	Ms. Chandra Roy-Henriksen	Chief
	Ms. Sonia Smallacombe	Secretariat of the Permanent Forum
	Mr. Broddi Sigurðarson	Secretariat of the Permanent Forum
	Mr. Arturo Requesens	Secretariat of the Permanent Forum
	Ms. Nilla Bernardi	Secretariat of the Permanent Forum
	Mr. Martin Andersen	Secretariat of the Permanent Forum
Department of Economic and Social Affairs/secretariat for the Convention on the Rights of Persons with Disabilities	Ms. Carol Pollack	Social Affairs Officer
Department of Public Information	Ms. Martina Volpe Donlon	Palestine, Decolonization and Human Rights Section
IFAD	Ms. Antonella Cordone	Technical Adviser, Coordinator for Indigenous and Tribal Issues
	Ms. Alba Prados Pascual	Intern, IFAD North-America Liaison Office
Indigenous Fund	Ms. Amparo Morales	International Relations Coordinator
International Land Coalition	Ms. Annalisa Mauro	International Land Coalition secretariat
Office for the Coordination of Humanitarian Affairs	Mr. Sushil Raj	Humanitarian Affairs Officer
OHCHR	Ms. Samia Slimane	Human Rights Officer, Indigenous Peoples and Minorities Section
Secretariat for the Convention on Biological Diversity	Mr. John Scott	Programme Officer for Traditional Knowledge, Innovations and Practices
UNDP	Ms. Shireen Said	Policy Adviser: Human Rights
	Ms. Sarah Rattray	Knowledge Management Specialist
	Ms. Laurence Klein	Programme Analyst Human Rights
	Mr. Terence Hay-Edie	Global Environment Facility Small Grants Programme

Agency, organization	*Name*	*Title*
United Nations Environment Programme (UNEP)	Ms. Laetitia Zobel	Major Groups and Stakeholder Branch, Nairobi
	Ms. Corli Pretorius	UNEP, New York Office
UNESCO	Ms. Ana Persic	Science Specialist, UNESCO New York
UNFPA	Mr. Alfonso Barragues	Technical Adviser, Human Rights
UNICEF	Ms. Anju Malhotra	Principal Adviser, Gender and Rights
	Ms. Beatrice Duncan	Focal Point for Indigenous Issues
	Ms. Nicola Brandt	Human Rights Specialist
Permanent Forum on Indigenous Issues	Mr. Paul Kanyinke Sena	Chair
	Mr. Alvaro Pop	Vice-Chair
	Dr. Mirna Cunningham	Member
UN-Women	Ms. Marina Mancinelli	Policy Specialist
	Ms. Babirye Brenda Bakwesegha	Communications Advocacy and Outreach Analyst
WHO	Karen Sealey, M.D.	PAHO/WHO Special Adviser
	Ms. Sandra Del Pino	Cultural Diversity Specialist
World Intellectual Property Organization (WIPO)	Ms. Lucinda Longcroft	Head, WIPO Coordination Office, New York
	Mr. Rama Rao Sankurathripati	Senior Adviser, WIPO Coordination Office, New York
	Mr. Q'apaj Conde	WIPO Indigenous Fellow, WIPO Headquarters, Geneva
World Bank	Mr. Luis Felipe Duchicela	Adviser on Indigenous Peoples
Special guests		
Permanent Mission of Mexico to the United Nations	Ambassador Jorge Mario Montaño y Martinez	Permanent Representative
Sámi Parliament of Norway	Mr. John Henriksen	International Representative
Global Coordinating Group	Ms. Binota Moy Dhamai	
	Ms. Tracey Whare	
	Ms. Florina Lopez	Co-Chair

Agency/organization	*Name*	*Title*
Department of Economic and Social Affairs	Ms. Daniela Bas	Director, Division for Social Policy and Development

Other participants

Ms. Paula Claycomb, Rapporteur

Ms. Cassandra Smithies, Interpreter

Ms. Ashley Thomas, Intern (UNICEF)

Annex II

Pre-Conference itinerary

Name of meeting	*Date and place of meeting*	*Organizing coordinating entity*
2013		
World Conference of Indigenous Women	28-30 October, Lima	
United Nations Latin American and Caribbean Group retreat	29-31 October, New York	
Advisory Group for the Global Environment Facility	1-2 November	
Global Environment Facility	December	
2014		
Workshop on best practices for policies for indigenous peoples	January, Panama	World Bank
Commission on the Status of Women	10-21 March (tentative), New York	UN-Women
Regional preparatory and thematic meeting for the World Conference on Indigenous Peoples	2-4 April, Mexico City	Government of Mexico
International Conference for Population and Development	April	UNFPA
Thirteenth session of the Permanent Forum on Indigenous Issues	12-23 May, New York	Permanent Forum on Indigenous Issues
Informal interactive hearing for the World Conference on Indigenous Peoples	End June, New York	United Nations
First United Nations Environment Assembly	23-27 June, Nairobi	UNEP
Seventh session of the Expert Mechanism on the Rights of Indigenous Peoples	7-11 July	Expert Mechanism on the Rights of Indigenous Peoples
Commemoration of the International Day of the World's Indigenous Peoples	9 August, New York and around the world	Permanent Forum on Indigenous Issues
High-level plenary meeting of the sixty-ninth session of the General Assembly (to be known as the World Conference on Indigenous Peoples)	22-23 September (half-day on 23 September), New York	General Assembly
2015		
Traditional foods		Convention on Biological Diversity
Tierra Madre		IFAD

Annex III

Terms of reference of the Inter-Agency Support Group on Indigenous Peoples' Issues

(Revised and adopted on 23 October and finalized on 6 November 2013)

Purpose

1. The Inter-Agency Support Group on Indigenous Issues (hereinafter, the Inter-Agency Support Group) is a mechanism for international cooperation on indigenous peoples' issues in relation to the Permanent Forum on Indigenous Issues,[a] programmes and mechanisms and other intergovernmental bodies and entities on indigenous peoples' issues.

Membership of the Inter-agency Support Group

2. The Inter-Agency Support Group shall be composed of focal points/units or representatives as identified by the heads of the departments of intergovernmental organizations, or other organizations working within the multilateral system, whose work is relevant to indigenous peoples and their issues.

3. Representatives should have broad knowledge and experience of the United Nations system and of activities concerning indigenous peoples' issues within their organizations.

4. Membership in the Group implies a commitment to participate regularly, including in the annual meetings, and, where feasible, on the margins of the annual sessions of the Permanent Forum on Indigenous Issues and to share information in a timely fashion to enable and facilitate coordination and cooperation.

5. The Inter-Agency Support Group shall:

(a) Promote respect for and full application of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples and follow up its effectiveness;[b]

(b) Provide an opportunity for the focal points, units or representatives of its members to meet regularly to exchange information in relation to their work on indigenous peoples' issues;

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[a] The Permanent Forum on Indigenous Issues is an advisory body of independent experts reporting to the Economic and Social Council on all matters within the mandate of the Council and was established by its resolution 2000/22. The General Assembly, in its resolution 57/191 of 18 December 2002, entitled "Permanent Forum on Indigenous Issues", explicitly referred to the Inter-Agency Support Group and invited the organizations and bodies of the United Nations system, including the Support Group, other relevant international and regional organizations and bodies and indigenous people to assist the Forum in carrying out its mandate as enumerated in paragraph 2 of Economic and Social Council resolution 2000/22, including through the provision of staff.

[b] Article 42: "The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration".

(c) Consider ways of strengthening cooperation among its members to promote the human rights and well-being of indigenous peoples through joint activities and other forms of cooperation;

(d) Analyse the recommendations of the Permanent Forum on Indigenous Issues and contribute to their implementation on the basis of the mandates, resources and capacity of each organization;

(e) Develop relationships with Governments, donors, civil society organizations, indigenous peoples' organizations and others to consider cooperative ways of supporting the Permanent Forum on Indigenous Issues;

(f) Develop relationships with other relevant mandates, including of the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Rights of Indigenous Peoples, Governments, donors, civil society organizations, indigenous peoples' organizations and others to consider cooperative ways of supporting the Permanent Forum on Indigenous Issues;

(g) Interact with the Permanent Forum on Indigenous Issues and its members to provide and seek information, advice and substantive inputs;

(h) Advise and assist in the mainstreaming of indigenous peoples' issues within each one of the members' programmes and the international system;

(i) Strengthen mutual support for the focal points/units or representatives in each of the agencies, organizations, programmes and entities participating in the Inter-Agency Support Group;

(j) Coordinate and liaise with regional and national inter-agency support groups and share good practices and experiences.

Methods of operation

6. The Inter-Agency Support Group shall meet at least once a year for a substantive meeting, with follow-up meetings, as necessary. Through practice, the Inter-Agency Support Group also meets formally/officially during the annual sessions of the Permanent Forum on Indigenous Issues.

7. The Chair of the Inter-Agency Support Group rotates through the members on an annual basis. The Chair is responsible for the hosting, convening and facilitation of all meetings of the Inter-Agency Support Group. The Chair rotates after the end of each annual session of the Permanent Forum on Indigenous Issues.

8. The secretariat of the Permanent Forum on Indigenous Issues co-chairs the meetings of the Inter-Agency Support Group and provides support and continuity to the Chair, and the Inter-Agency Support Group, as required.

9. The Inter-Agency Support Group will invite members of the Permanent Forum on Indigenous Issues as contributors to its discussions, as necessary, taking into account their respective portfolios.

10. The Inter-Agency Support Group may invite on an ad hoc basis, experts, civil society organizations and other entities whose work may contribute to the work of the Inter-Agency Support Group, as observers and contributors to its discussions. These invited contributors would be able to attend such parts of the inter-agency

meetings as may be decided by the Inter-Agency Support Group rotating Chair and Co-Chair, after consulting with other members of the Inter-Agency Support Group.

11. The members of the Inter-Agency Support Group are responsible for covering their own costs in relation to meetings.

12. The Inter-Agency Support Group shall keep a record of proceedings.

Annex IV

Actions arising from the annual meeting of the Inter-Agency Support Group on Indigenous Peoples' Issues for 2013

1. In preparation for the World Conference on Indigenous Peoples, the Inter-Agency Support Group would further develop and finalize in a timely manner thematic papers on the following areas/issues:

(a) Protection from violence, exploitation and abuse (UNICEF and UN-Women);

(b) Governance and human rights (UNDP);

(c) Education (UNESCO);

(d) Health (PAHO/WHO);

(e) Indigenous persons with disabilities (Department of Economic and Social Affairs/secretariat of the Convention on the Rights of Persons with Disabilities);

(f) Access to reproductive health services, including HIV/AIDS prevention and treatment (UNFPA);

(g) Lands, territories and natural resources (FAO).

2. The papers will follow the common template of: (a) key messages; (b) a summary; and (c) background and analysis, with agencies having the option of attaching an annex setting out good practices. UN-Women will revert to the Inter-Agency Support Group with a decision on taking the lead in developing a paper on gender equality and women's empowerment. OHCHR will revert on its decision to develop a paper on participation. Regarding the paper on lands, territories and natural resources, details could not be discussed owing to the unavailability of FAO to participate in the meeting. It was agreed for a separate discussion to take place between the Convention on Biological Diversity, the International Land Coalition, FAO, IFAD, UNEP and UNESCO to agree on the process, structure and content of that thematic paper. Mirna Cunningham suggested focusing the paper within the perspective of the self-determination of indigenous peoples and the inalienable collective right to the ownership, use and control of lands, territories and other natural resources, which is a central theme to the World Conference. There was general acceptance of this proposal among the participating agencies.

3. With a view towards effective advocacy around the World Conference, the Inter-Agency Support Group is encouraged to develop key messages around the four themes of inequality, governance, gender and a human rights-based approach to development.

4. The Inter-Agency Support Group would continue to look for opportunities to support the participation of indigenous peoples in the World Conference on Indigenous Peoples (including its preparatory processes), to be held in September 2014.

5. Entities would continue to also raise awareness among senior managers and heads of agencies about the World Conference and encourage their participation.

6. The Global Coordinating Group of the World Conference and the Permanent Forum will consider the recommendation that they organize one or more meetings with the heads of agencies to brief them on the Conference and advocate for their active support.

7. The revised terms of reference would be circulated electronically by the Convention on Biological Diversity to all members of the Support Group for final review and clearance, and the final version would then be forwarded to the Chair of the Permanent Forum.

8. The Inter-Agency Support Group agrees to hold, as a minimum, teleconferences every two months in the months leading up to the World Conference on Indigenous Peoples in September 2014, to share progress and agree on appropriate actions as the World Conference process unfolds.

9. The Inter-Agency Support Group agrees that all reports, studies, surveys and other documents prepared or commissioned by individual agencies will be made available online and that Support Group members will be informed of the site.

10. In the capacity of Co-Chair, the chief of the secretariat of the Permanent Forum would identify relevant entities not currently participating in the Inter-Agency Support Group and write to the respective heads of agencies, requesting the appointment of a focal point on indigenous issues.

11. Agencies are requested to submit annual reports to the Permanent Forum, including an executive summary on the front page, which focuses on responses to recommendations of the Permanent Forum, in order to assist the secretariat of the Permanent Forum in their analysis of reports by entities and the preparation of the report in addition to that of the final comprehensive report on the Second International Decade of the World's Indigenous People.

12. Members of the Inter-Agency Support Group requested more collaboration with members of the Permanent Forum during the annual sessions of the Permanent Forum to ensure greater coherence and synergies, with particular reference to recommendations and follow-up.

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Thirteenth session
New York, 12-23 May 2014
Items 3, 4 (a) and 7 of the provisional agenda*

Special theme: "Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: articles 3 to 6 and 46"

Human rights: implementation of the United Nations Declaration on the Rights of Indigenous Peoples

Ongoing priorities and themes and follow-up

Information from States on addressing the recommendations of the Permanent Forum on Indigenous Issues

Note by the secretariat

The present document is a compilation of the responses from Member States to a questionnaire on actions taken to implement the goal of the Second International Decade of the World's Indigenous Peoples and the Millennium Development Goals, as well as the recommendations of the Permanent Forum on Indigenous Issues. The questionnaire and the complete responses from Member States are available on the website of the Permanent Forum.

* E/C.19/2014/1.

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I. Introduction

1. As at 28 February 2014, the Permanent Forum on Indigenous Issues had received written responses to its questionnaire on actions taken or planned to address and implement the recommendations of the Permanent Forum from the following States: Australia, Bolivia (Plurinational State of), Denmark and Greenland,[1] Finland, Mexico, New Zealand and Norway. New Zealand reported for the first time in 2014. The complete written responses from States can be found on the website of the Permanent Forum (http://undesadspd.org/IndigenousPeoples/UNPFIISessions/Thirteenth.aspx).

2. The questionnaire sent to States was divided into two sections. The first part was designed to obtain information on the achievements of the Second International Decade of the World's Indigenous People, including the related issue of the Millennium Development Goals, as well as other information on how Governments are currently promoting the implementation of the United Nations Declaration on the Rights of Indigenous Peoples. The second part of the questionnaire was designed to obtain information for the thirteenth session of the Permanent Forum, as well as its ongoing themes and priorities.

3. On 20 December 2004, the General Assembly adopted resolution 59/174, in which it established the Second International Decade of the World's Indigenous People, which commenced on 1 January 2005. The goal of the Second Decade, with the theme "Partnership for action and dignity", is the further strengthening of international cooperation for the solution of problems faced by indigenous people in such areas as culture, education, health, human rights, the environment and social and economic development, by means of action-oriented programmes and specific projects, increased technical assistance and relevant standard-setting activities.

4. All United Nations Member States have agreed to achieve eight Millennium Development Goals by 2015. The United Nations Millennium Declaration, adopted in September 2000, commits world leaders to combating poverty and hunger, achieving universal primary education, promoting gender equality, reducing child mortality, improving maternal health, combating HIV/AIDS and other diseases, ensuring environmental sustainability and developing a global partnership for development.

5. The United Nations Declaration on the Rights of Indigenous Peoples is the most comprehensive and advanced international instrument incorporating indigenous people's rights. The Declaration was adopted by the General Assembly in 2007. Article 42 of the Declaration has established that the United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of the Declaration and follow up the effectiveness of the Declaration.

[1] Greenland has an autonomous government within the Government of Denmark; Denmark submitted its report as Denmark and Greenland.

II. Section 1 of the questionnaire: achievement of the goal of the Second International Decade of the World's Indigenous People and related issues

A. State responses concerning compliance with the goal of the Second International Decade of the World's Indigenous People

6. Australia reported the Government's focus on ensuring that Aboriginal and Torres Strait Islander children attend school regularly. The starting point is the Government's Remote School Attendance Strategy. The Commonwealth Government is working closely with the relevant state, territory and non-government education providers to address a range of barriers contributing to non-attendance and to ensure that indigenous students in remote areas get to school and stay at school. The Government of Australia will also include a national target to improve attendance rates in its strategic targets aimed at closing the gap between the outcomes of Aboriginal and Torres Strait Islander peoples and the outcomes of other Australians.

7. The Government of Australia works collaboratively with the Aboriginal and Torres Strait Islander health sector to improve the health outcomes of all indigenous Australians. There is a focus on preventive health activities and significant investment in primary health-care services. Australia is committed to closing the gap in indigenous health outcomes and has targeted closing the gap in terms of life expectancy by 2031 and halving the rates of child mortality by 2018.

8. The Ministry of Education of the Plurinational State of Bolivia has been working towards the development of an educational curriculum which complies with indigenous peoples' rights. The curriculum is of high quality, taking into consideration indigenous peoples' culture and language. The Plurinational State of Bolivia has published documents and multimedia materials for educational purposes in Aymara, Quechua and Guarani. In terms of health, it reported the establishment of intercultural municipal pharmacies, which provide medicines based on medicinal plants. On 19 December 2013, the Government adopted the Ancestral Bolivian Traditional Medicine Law, which aims to regulate the exercise and practice of the national health system on ancestral traditional medicine.

9. Denmark has adopted a strategy for the period 2013-2016 aimed at socially disadvantaged persons from Greenland living in Denmark to improve their living conditions. A total of DKr 13.4 million has been allocated for the implementation of the strategy. In January 2013 the Greenland Human Rights Council was established on the basis of *Inatsisartut* Act No. 23 of 3 December 2012. The Council cooperates with the Danish Institute for Human Rights in monitoring the human rights situation in Greenland.

10. In 2013, the Ministry of Social Affairs and Health of Finland commissioned a study on the health and well-being of Saami living in the Saami homeland. A central factor in the well-being of Saami is coping with life. This is based on independent living, assistance from relatives and the community, and support and services from society. The Saami population lives in the midst of pressure to change: as the population ages, young Saami move to live elsewhere. Hence, their ways of life and livelihoods change and there is concern that Saami communities may disintegrate. A positive finding of the study is that both the Saami identity and the Saami language and culture have been strengthened. Owing to changes in the Saami community,

public services provided in the Saami language have an important role in ensuring the well-being of Saami peoples. However, there is a short history of public services being made available to Saami; their access to services has improved, albeit slowly. According to the Saami women, the nuclear family clearly has a stronger role as an everyday source of assistance. In recent decades, there has been a significant rise in supplementing welfare services and everyday safety networks for Saami.

11. The Mexican National Commission for the Development of Indigenous Peoples organized a consultation on the priorities for the development of indigenous peoples and people of African descent. The result of this consultation was taken into consideration in the development of the national development plan for the period 2013-2018. The consultation covered 27 local states, covering 297 municipalities. Overall, 23,010 indigenous peoples (12,469 men and 10,541 women) participated in the consultation.

12. In New Zealand there are seven Maori electorates in Parliament. The Government of New Zealand has established a Minister of Maori Affairs. The Waikato Regional Council has established two Maori seats for the 2013 elections. *Te Puni Kōkiri* is a government ministry established under the Ministry of Maori Development Act 1991. The Ministry provides policy advice to the Minister of Maori Affairs. Its functions are to promote increases in levels of achievement by Maori in education, training and employment, health and economic resource development and to monitor and liaise with other government departments and agencies to ensure that their services for Maori are adequate.

B. Efforts of Governments regarding indigenous peoples and the achievement of the Millennium Development Goals

13. Australia reported that there were no formal policy links between Australian indigenous policy and the Millennium Development Goals, as the Goals currently relate solely to developing countries.

14. Finland supports the United Nations Indigenous Peoples' Partnership, which was launched in 2011 by the International Labour Organization (ILO), the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, the United Nations Children's Fund and the United Nations Population Fund with the support of the Secretary-General. The Partnership provides funding, expert and technical support to joint United Nations country programmes, as well as global and regional initiatives designed in partnership with indigenous peoples to advance the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and recommendations by treaty bodies and other human rights mechanisms.

15. Finland supports the participation of indigenous peoples in various United Nations forums, including through voluntary funding to the United Nations Voluntary Fund for Indigenous Populations. In preparation for the World Conference on Indigenous Peoples, Finland has channelled additional support to the activities of the Indigenous Global Coordinating Group in order to contribute to the inclusive and broad participation of indigenous peoples, including indigenous youth and women.

16. In Mexico all the programmes carried out by the National Commission for the Development of Indigenous Peoples support the Millennium Development Goals. In 2006 the Commission prepared a document entitled "The MDGs and indigenous peoples in Mexico", which is part of a larger document entitled "The MDGs in Mexico".

17. New Zealand reported on the Maori Potential Approach, a public policy framework developed by *Te Puni Kōkiri* in 2004. The approach recognizes that Maori are culturally distinct and have the capacity and potential to improve the quality of life for themselves and their community.

C. Indigenous children and youth

18. Australia reported that youth diversionary programmes for indigenous children were funded to help them avoid incarceration and to assist in tackling the incidence of petrol sniffing in remote indigenous communities, particularly in central and northern Australia. The Government is funding the roll-out of low-aromatic, non-sniffable fuel across the region and youth diversionary programmes for Aboriginal and Torres Strait Islander youth, which are integral to the success of the strategy.

19. The Government of Australia directly funds nearly 350 children's services to deliver mainstream childcare (in regional and remote areas) and culturally competent services, in particular Aboriginal and Torres Strait Islander-focused childcare services (across all geographical areas, from metropolitan to remote). The participation of indigenous children in preschools is supported.

20. In the Plurinational State of Bolivia, the Ministry of Education provides 350 scholarships for low-income indigenous youth. In 2013 the Indigenous Technological Centre was created; 120 indigenous young people are now studying at the Centre.

21. According to Denmark, indigenous peoples, children and youth are in general focus areas in its development cooperation, as well as in its human rights policies.

22. In Finland, the Ministry of Education and Culture has taken long-term measures to support the activities of young Saami peoples as part of the overall youth policy. The Youth Council set up in 2010 in connection with the Saami Parliament aims to improve the living conditions of young Saami and to promote their active citizenship. The Ministry subsidizes the activities of the Youth Council financially on a yearly basis. In addition, the Ministry subsidizes the national Saami youth organization and has granted special subsidies for the youth activities of the Saami in the Helsinki metropolitan area.

23. Mexico has created a programme to host indigenous children and youth who require the service, providing housing, food and education. As at 31 December 2013, 60,692 persons benefited from the programme through 1,065 hostels. Some 236 community-based hostels have also been established, benefiting 13,996 indigenous children and youth. The Government spent 902.4 million Mexican pesos to support the hostels.

24. Child poverty exists in New Zealand, and the Government is taking steps to address this issue. Based on the latest available comparisons, New Zealand's child poverty rates are in the middle of international league tables published by the

Organization for Economic Cooperation and Development and the European Union. Poverty in New Zealand is generally understood as "exclusion from a minimum acceptable way of life in one's own society because of a lack of adequate resources", and children in New Zealand have access to free education, health care and, where necessary, welfare for their parents.

25. The Government of New Zealand is firmly focused on children's engagement and success in education. There is a deliberative policy drive to increase participation in early childhood education, particularly for children considered vulnerable. The Government is also looking at those parts of the education system where children tend to disengage. The overall emphasis is on increasing achievement and success.

26. New Zealand children aged between 5 and 19 years have a right to free education. The Government recognizes that some children face particular challenges in accessing education, particularly Maori and Pasifika children and children with disabilities. The Government has developed specific plans and programmes to tackle these issues, including the Pasifika Education Plan and the Maori Education Strategy. The Government also has a target for all schools to demonstrate inclusive practice by 2014.

27. The Government of Norway supports language projects and teaching materials for kindergartens and schools. For Saami youth that live in areas where few speak Saami, there are distance education programmes and regularly organized language camps. The Action Plan for Saami Languages (2009-2014) gives an overview of the measures concerning Saami languages.

28. Children and youth organizations receive funding from the Saami Parliament and/or the Government in order to strengthen relationships with Saami youth in the other Nordic countries and, in general, to work with issues that engage young Saami people.

D. Focus, laws and programmes to address indigenous women's issues

29. The indigenous women's grant programme of the Government of Australia enhances the leadership skills of indigenous women in a range of areas that contribute to improving outcomes for overcoming indigenous disadvantages, in line with identified local needs and priorities. The Government provides funding to community legal centres to meet the specific legal needs of indigenous women and funds programmes that assist indigenous women who are victims/survivors of family violence.

30. According to the Plurinational State of Bolivia, the right of indigenous women to access and own land has increased. Prior to the current Government, only 11 per cent of indigenous women owned land. Under the current Government, indigenous women's ownership has increased to 46 per cent.

31. Denmark and Greenland reported that, in April 2003, the Government of Greenland adopted the Act for equality between women and men. Since the 1980s there have been shelters and counselling centres for women or men in Greenland who have been victims of violence and threats of violence or other domestic crisis. Women and men may be accompanied by their children. In the second half of 2013,

the *Inatsisartut* (Greenland Parliament) adopted a strategy and action plan for the period 2014-2017 to combat violence in the domestic as well as in the public sphere.

32. Mexico adopted the new national programme of the National Commission for the Development of Indigenous Peoples in January 2014. One of the specific objectives of the programme is to promote the exercise of the rights of indigenous women in order to tackle inequality between men and women through cross-cutting actions. The programme includes the establishment of houses for indigenous women, a project to provide attention and protection to indigenous women victims of violence, the promotion of gender equality among indigenous peoples, as well as strengthening the leadership of indigenous women.

33. New Zealand reported the establishment of the Ministry of Women's Affairs, which is the Government's principal adviser on achieving better outcomes for women. *Whānau Ora* is an initiative implemented by *Te Puni Kōkiri*, the Ministry of Social Development and the Ministry of Health. It recognizes the role of Maori women in families and is implemented by more than 200 health, social and community providers.

E. National institutions for indigenous peoples' issues

34. According to the Government of Australia indigenous issues are accorded a high priority, with the Australian Prime Minister being the Minister for Indigenous Australians. The Government's focus is on improving education, providing more job opportunities, empowering individuals and communities and improving standards of living. Most indigenous policies, programmes and services delivery have been moved into the Department of the Prime Minister and Cabinet, and the Minister for Indigenous Affairs sits within the Cabinet. In addition, a Parliamentary Secretary assists with delivering programme outcomes for indigenous Australians. As the lead agency the Department of the Prime Minister and Cabinet ensures that greater priority is given to indigenous affairs in terms of access to mainstream programmes across all agencies.

35. One of the institutions working on indigenous peoples' issues in the Plurinational State of Bolivia is the Ministry of Autonomy, which aims to gradually promote self-determination and self-government for indigenous peoples.

36. According to Denmark a number of national and regional institutions are engaged in the protection of the rights of indigenous peoples. These include in particular the Ministry of Foreign Affairs of Denmark, the Danish Institute for Human Rights, the Arctic Council and the Greenland Council for Human Rights. Greenland also has its own courts, and the Danish High Court is the highest court of appeal for Greenland.

37. The Danish Institute for Human Rights prepared a report regarding human rights in Greenland focusing primarily on children, disabled persons, the rule of law, education and extractive industries. The Institute has also trained defence lawyers in Greenland and initiated cooperation with a child right's institution in Greenland to strengthen the dissemination of the Convention on the Rights of the Child.

38. In Finland the Ministry of Justice is tasked with the coordination and preparation of matters concerning the Saami peoples. Other ministries take responsibility for managing Saami issues in their own field of administration,

including on issues related to social welfare and health, employment and livelihoods.

39. In Finland, the task of the Ombudsman for Minorities is to advance the status and legal protection of ethnic minorities in Finland and to prevent and tackle ethnic discrimination. The Ombudsman also acts as the national rapporteur on trafficking in human beings. The Office of the Ombudsman targets its services towards immigrants, foreigners living in Finland and Finland's traditional ethnic minorities, such as the Saami peoples.

40. In 2003, Mexico established the National Commission for the Development of Indigenous Peoples. The objective of the Commission is to coordinate, promote, support, follow up and evaluate programmes, projects, strategies and public actions for the integral and sustainable development of indigenous peoples and communities.

41. In New Zealand the *Te Puni Kōkiri* is the government ministry that provides policy advice to the Minister of Maori Affairs. Its functions are to promote increases in levels of achievement by Maori in education, training and employment, health and economic resource development and to monitor and liaise with other government departments and agencies to ensure that their services are adequate.

F. Capacity-building programmes on indigenous peoples' issues for civil servants

42. Australia indicated that the Australian Public Service Commission supports the recruitment, development and career progression of Aboriginal and Torres Strait Islander peoples in the Australian public service by implementing the Australian Public Service Indigenous Employment Strategy. Federal government agencies have cultural awareness programmes to build public servants' capacity to understand indigenous issues and the importance of engagement.

43. According to Denmark, a technical guide on indigenous peoples' rights produced in 2011 is available for civil servants and others working with development activities in the Government of Denmark.

44. In Finland the Saami Education Institute makes an active contribution to developing education and training, such as quality work in vocational education, as a member of a quality network of northern Finland.

45. In 2013, the Mexican National Commission for the Development of Indigenous Peoples and other institutions, such as the National Commission of Natural Protected Areas, organized workshops on human rights and the environment in 12 local states. The workshops included indigenous rights and the environment, as well as the traditional knowledge of indigenous peoples.

46. The New Zealand Human Rights Commission's programme *Te Mana i Waitangi* delivers workshops to a range of community and government audiences on the Treaty of Waitangi and the Declaration of Independence.

G. Implementation of the United Nations Declaration on the Rights of Indigenous Peoples

47. The Australian Human Rights Commission, which is funded by the Government of Australia, is active in promoting the principles of the United Nations Declaration on the Rights of Indigenous Peoples, including through education materials.

48. Greenland and Denmark have for years worked together closely to promote indigenous peoples' rights. Denmark's first strategy in 2004 to support indigenous peoples was prepared on the basis of a Danish/Greenland initiative. The establishment of the self-government arrangement for Greenland in 2009 is in itself an illustration of Greenland and Denmark's implementation of and commitment to the Declaration. A report in 2011 concluded that the Danish/Greenland cooperation had led to groundbreaking institutional results and to improving living conditions for indigenous peoples.

49. Denmark and Greenland have historically been and are still active in a number of relevant forums where indigenous peoples' rights are discussed. For instance, Denmark and Greenland participated actively in the negotiation of resolutions relevant to the rights of indigenous peoples and in the sessions of the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples.

50. In Finland many of the goals of the United Nations Declaration on the Rights of Indigenous Peoples have been included in national legislation at the time of its adoption in 2007. For a long time, protecting and promoting the rights of indigenous peoples had been one of the priorities of the Government of Finland in the field of human rights and a cross-cutting theme in Finnish development policy. The adoption of the Declaration brought a new significant instrument for international cooperation and, most importantly, for national work in partnership with the Saami peoples. In Finland, the Declaration has become a valuable tool in the preparation of a multitude of national measures, ranging from legislation to action plans.

51. Finland has pursued the objectives of the Declaration, for example by means of a national action plan on fundamental and human rights adopted in March 2012. Different projects under the action plan aim to promote the implementation of Saami peoples' participation rights. In practice, such projects clarify the legislation on the rights of the Saami to take part in the decision-making on and planning of the use of state land and waters in the Saami homeland.

52. In Mexico the Declaration has been translated into many indigenous languages and has been disseminated through appropriate intercultural mechanisms. It has also been used as a guide to develop policies on indigenous peoples, including consultation mechanisms.

53. The Government of New Zealand promotes the United Nations Declaration on the Rights of Indigenous Peoples through the New Zealand Human Rights Commission's programme *Te Mana i Waitangi*. As previously stated, the programme delivers workshops regarding the Treaty of Waitangi and the Declaration of Independence.

54. Norway reported that great importance had been attached to the United Nations Declaration on the Rights of Indigenous Peoples by the Saami people. Although many of the rights laid down in the Declaration have already been

implemented in Norway, for example through the Finnmark Act and the Procedures for Consultations between State Authorities and the Saami Parliament of 11 May 2005, the Declaration is an important signal of the State's general position regarding the rights of indigenous peoples.

55. In Norway, a number of political areas will be relevant and of considerable importance to the Saami. As regards such matters, the right to self-determination can be viewed as a right to influence and co-determination in matters that affect the Saami as a group. When such a right to participation and influence is to be implemented, two categories of rights may be considered. First, it concerns a right to make decisions alone in matters that apply only to the Saami, that is, cultural and linguistic autonomy. Second, it must concern a right to genuine, effective participation in the exercise of public administration affecting both the Saami and the community of which it is part, for example as regards decisions concerning land-use planning and the exploitation of resources. A right to participation, among others, may be implemented through consultations, and an obligation to consult the indigenous people concerned is also referred to in the Declaration.

56. In Norway, the consultation obligation is implemented through the Procedures for Consultations between State Authorities and the Saami Parliament in accordance with article 6 of ILO Convention No. 169. The right to participation in the management of natural resources can also be exercised through the appointment of a Saami parliamentarian to joint governing bodies, such as *Finnmarkseiendommen* ("the Finnmark Estate") and the regional predator management boards.

III. Section 2 of the questionnaire: recommendations of the Permanent Forum on Indigenous Issues and ongoing issues and priorities

A. Response to recommendations from the twelfth session of the Permanent Forum

57. According to Denmark, few recommendations stemming from the twelfth session of the Permanent Forum are directly applicable to the context of Denmark/Greenland. As recommended by the Permanent Forum, Denmark recently pledged approximately $450,000 (DKr 2.5 million) to the United Nations Voluntary Fund for Indigenous Populations and intends to pledge approximately $730,000 (DKr 4 million) to the Trust Fund on Indigenous Issues.

58. In 2014 Denmark/Greenland will be the main sponsors of an expert workshop in April to celebrate the twenty-fifth anniversary of ILO Convention No. 169. The workshop aims to take stock of the Convention's contribution to rights-based development as well as to revitalize interest in and strengthen the implementation of the Convention.

59. In Finland the recommendations of the Permanent Forum are used to provide general guidance for policymaking and drafting laws.

60. In 2013 Mexico provided financial support to the United Nations Voluntary Fund for Indigenous Populations. In 2014 Mexico will host a preparatory meeting

for the World Conference on Indigenous Peoples and will support indigenous peoples' participation during the World Conference.

B. Response on the special theme, "Principles of good governance consistent with the United Nations Declaration on the Rights of Indigenous Peoples: articles 3 to 6 and 46"

61. According to Australia the Commonwealth provides assistance to more than 2,500 indigenous corporations through the Office of the Registrar of Indigenous Corporations. The Registrar regulates and supports indigenous corporations incorporated under the Corporations (Aboriginals and Torres Strait Islander) Act 2006. The Office delivers a tailored service that responds to the special need of indigenous groups and corporations and works to establish national and international best practice in corporate governance.

62. In the Plurinational State of Bolivia, according to the policy implemented by the Government there are new processes ongoing towards the recognition of indigenous autonomy, including in the following territories and municipalities: Raqaypampa, Monte Verde Chiquitano Indigenous Territory, Marka Camata, Multiethnic Indigenous Territory (Beni) and Yuracare Indigenous Council.

63. Denmark's support for good governance is guided by two interlinked strategies: democracy and human rights for the benefit of the people and effective and accountable public sector management. In addition, the Strategy for Danish Support to Civil Society in Developing Countries also provides significant pointers for the Danish support to governance. A number of thematic synergies link these strategies in such areas as accountability, transparency and participation. A human rights-based approach to development is underpinning these strategies.

64. As part of Denmark's international human rights cooperation and in close cooperation with the Greenland autonomous government, Denmark promotes and protects the rights of indigenous peoples. The strategy for the Government's approach to international human rights work from 2009 identifies indigenous peoples' rights as an issue where Denmark will make a special effort in the years ahead.

65. Equality and non-discrimination are key building blocks for democracy, and respect for the free, prior and informed consent of indigenous peoples is one of the strategic priorities outlined in the current strategy. Specific efforts to promote the rights of indigenous peoples and minorities are often implemented in cooperation with United Nations agencies.

66. Reference is also made to the information on the Greenland autonomous government and its introduction submitted to the Permanent Forum at its eighth session (E/C.19/2009/4/Add.4), as regards the approach to good governance in Greenland.

67. In Finland the Saami Parliament and the revised Saami Parliament Act request authorities to negotiate with the Saami Parliament in all far-reaching and important measures which may directly and specifically affect the status of the Saami as indigenous peoples and which concern matters in the Saami homeland.

68. In Mexico the National Commission for the Development of Indigenous Peoples is working with local governments in the harmonization of their legislation on indigenous peoples with international standards. Currently, 20 local Constitutions of the 31 local States have harmonized their legislation. Furthermore, 21 local States have adopted legislation on the rights and culture of indigenous peoples.

69. New Zealand reported that the Treaty of Waitangi was considered a founding document of New Zealand. The Treaty has a well-developed system for settling historical Treaty grievances with Maori, known as the Treaty settlement process. Through that process, the Government is pursuing efforts to comprehensively settle Treaty grievances that Maori claimant groups assert the State has committed. The Government seeks to negotiate settlements that are timely, fair and durable. Settlements may include land, money and a government apology. The New Zealand Parliament passes legislation supporting each Treaty settlement. In most cases, the legislation is approved by all parties in Parliament. The process in Parliament reaffirms both the importance that New Zealand places on redressing historical harms but also means that all of New Zealand has a stake in durable settlements. The State and claimant groups have signed 67 deeds of settlement in relation to Treaty of Waitangi claims. It is expected that approximately 60 more will be signed. The Government of New Zealand is aiming to reach agreements with all willing and able claimant groups in the next few years.

70. In Norway the authorities played an active part in the work in the lead-up to the adoption of the United Nations Declaration of the Rights of Indigenous Peoples when it first started in 1984. The Government's goal was to arrive at a United Nations declaration that could strengthen the protection afforded to the world's indigenous peoples. The Government cooperated closely with the Saami Parliament, which was represented at all times in the Norwegian delegation on the negotiations in the United Nations.

71. The national legal framework is in line with international obligations, and Norway's Saami policy is in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. The Saami Parliament was established in 1989 and is the representative political body for the Saami in Norway. It is an important dialogue partner for the central government and has assumed administrative responsibility and implements policy instruments in certain areas.

72. In the past few decades, policies towards the Saami have given priority in terms of recognizing and strengthening minority and indigenous rights and to developing an infrastructure of institutions in Saami society. Legislation and programmes to strengthen the Saami language, culture industries and society have been developed and implemented in dialogue and cooperation with the Saami Parliament.

IV. Observation

73. The reports by States provide important background information, as well as current information, on Government policies and practices in respect of indigenous peoples' rights. States have reported that basic social services are being directed to indigenous peoples and, more importantly, to all groups within indigenous communities, such as women, youth, children and persons with disabilities. The information provided by States on the implementation of the United Nations

Declaration on the Rights of Indigenous Peoples is encouraging, but more needs to be done to improve the situation of indigenous peoples on the ground. Appreciation goes to those States that provided reports in 2014, not only for the thirteenth session of the Permanent Forum on Indigenous Issues but also to address the questions on the Second International Decade of the World's Indigenous People. Those States that have not submitted reports are encouraged to do so in the future, as such reports are extremely valuable and important for the work of the Permanent Forum.